

RESOLUTION NO. 2016256

RE: AUTHORIZING EXECUTION OF GRANT AGREEMENT  
TO PARTIALLY FUND THE PURCHASE OF A  
CONSERVATION EASEMENT ON THE  
MANNE FARM IN THE TOWN OF EAST FISHKILL,  
NEW YORK AND REALLOCATING FUNDS THEREFORE

Legislators BORCHERT, FORMAN, MICCIO, BOLNER, INCORONATO,  
STRAWINSKI, SAGLIANO, PULVER, THOMES offer the following and move its adoption:

WHEREAS, Dutchess County is considering a recommendation of the Dutchess County Planning Board (Resolution No. 01/2016) for an award in an amount not to exceed \$80,000.00 in grant funds available through the Dutchess County Partnership for Manageable Growth Grant Program (the "Program") to partially fund the purchase of an agricultural conservation easement, to be held by the Dutchess Land Conservancy (the "Conservancy"), on approximately 39.277 acres of Property, known as the Manne Farm (Tax Grid Numbers: 6555-00-135985-0000, 6555-00-290980-0000, 6556-3060209-0000, 6555-00-300993-0000, and 6555-00-331929-0000) located at Jackson Road, in the Town of East Fishkill, Dutchess County, New York, and

WHEREAS, as a result of the Conservancy's organizing efforts and an application to the Program, Dutchess County shall contribute up to \$80,000.00 and the Conservancy, Scenic Hudson Land Trust, and Hudson Highlands Land Trust shall contribute up to \$80,000.00 towards the purchase of the agricultural conservation easement on the Property for an acquisition cost of \$160,000, (not including Dutchess Land Conservancy providing in-kind services in the approximate amount of \$7,600.00 and funds for related transaction costs in the amount of \$34,350.00, for a total contribution of up to \$201,950), and

WHEREAS, a real estate appraisal by Paul Herrington, ARA of Farm Credit East, ACA, dated August 24, 2016, all on file with the Clerk to the Legislature supports the purchase price to be paid by the County for the 39.277acre Property, and

WHEREAS, the easement shall provide, among other things, that it shall be held by the Conservancy, which shall assume primary responsibility to monitor and enforce the easement; that the County shall have third party enforcement rights and the right to share proportionately in the proceeds which become available, upon extinguishment, if ever, and

WHEREAS, the proposed Grant Agreement, is subject to various contingencies including approval and acceptance of the easement and related closing documents (e.g. survey, title report and insurance) by the County and receipt by the County of the contribution from Dutchess Land Conservancy, Scenic Hudson Land Trust, and Hudson Highlands Land Trust not to exceed \$80,000.00, and the contribution by the Conservancy providing in-kind services in the approximate amount of \$7,600.00 and funds for related transaction costs in the amount of \$34,350.00), now therefore be it

WHEREAS, Resolution 208206, a Bond Resolution, authorized the issuance of \$1,600,000 serial bonds of the County for specific open space and farmland purposes, and Resolution 2014323, a subsequent Bond Resolution, authorized the issuance of \$1,000,000, serial bonds of the County for specific open space and farmland protection purposes/projects, and

WHEREAS, as a result of reductions in the scope and costs of those specific projects in Resolutions 208206 and 2014323, and the funds are available for reallocation to partially fund the purchase of an agricultural conservation easement on the Manne Farm Property which is a farmland protection project in accord with the objectives of those Bond Resolutions and the Partnership for Manageable Growth Grant Program, and now therefore be it

RESOLVED, that the County Executive, or his designee, is hereby authorized to execute the Grant Agreement and the Monitoring Agreement attached hereto, and be it further

RESOLVED, the County Executive is authorized to take such actions as are necessary and in accord with the requirements of the Dutchess County Partnership for Manageable Growth Grant Program to complete the acquisition contemplated hereunder including changes to the documents as necessary, and be it further

RESOLVED, that the funds allocated by Resolutions 208206 and 2014323 to specific open space and farmland purposes, which due to reductions in the scope and costs of those projects are now available in Capital Projects H0400, are reallocated to partially fund the purchase of an agricultural conservation easement on the Manne Farm Property, and be it further

RESOLVED, that the County Executive, or his designee, is hereby authorized to execute the Grant Agreement and the Monitoring Agreement attached hereto, and be it further

RESOLVED, the County Executive is authorized to take such actions as are necessary and in accord with the requirements of the Dutchess County Partnership for Manageable Growth Grant Program to complete the acquisition contemplated hereunder including changes to the grant agreement and easement consistent with general program purposes, and be it further

RESOLVED, to provide for expenses for the above referenced Project, the Commissioner of Finance, as appropriate, is hereby authorized, empowered and directed to amend the 2016 Adopted County Budget as follows:

APPROPRIATION

Decrease

|                  |                                  |          |
|------------------|----------------------------------|----------|
| H0400.8020.3006. | Conservation Easement Manne Farm | \$80,000 |
|------------------|----------------------------------|----------|

REVENUE

Increase

|                      |            |          |
|----------------------|------------|----------|
| H0400.8020.3006.7009 | Manne Farm | \$80,000 |
|----------------------|------------|----------|

CA-162-16

EW/AMS/kvh

G-1663

10/27/16

Fiscal Impact: See attached statement

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 7th day of November 2016, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 7<sup>th</sup> day of November 2016.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

## FISCAL IMPACT STATEMENT

☐ NO FISCAL IMPACT PROJECTED

### APPROPRIATION RESOLUTIONS (To be completed by requesting department)

Total Current Year Cost \$ 80,000

Total Current Year Revenue \$ 0  
and Source

Source of County Funds (check one): ☒ Existing Appropriations, ☐ Contingency,  
☐ Transfer of Existing Appropriations, ☐ Additional Appropriations, ☐ Other (explain).

Identify Line Items(s):

H0400.8020.3006.7009 - Easement-Conservation Manne Farm

Related Expenses: Amount \$ 0

Nature/Reason:

Anticipated Savings to County: \$0

Net County Cost (this year): \$80,000  
Over Five Years: \$80,000

#### Additional Comments/Explanation:

The total cost of the Manne Farm acquisition is \$201,950. Primary funding of \$121,950 is to be provided by the Dutchess Land Conservancy, Scenic Hudson Land Trust, and Hudson Highlands Land Trust and constitutes 60% of total project cost. The County's PMG grant of \$80,000 will provide approximately 40% of the total acquisition cost.

The source of County funds is Capital Account H0400.8020.3006, a bond approved by Dutchess County Legislature Resolution No. 208206 to support the Partnership for Manageable Growth Open Space and Farmland Protection Matching Grant Program.

Prepared by: Brian Kehoe, Department of Planning and Development

ATTACHMENT TO RESOLUTION

MONITORING AGREEMENT

## MONITORING AGREEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the COUNTY OF DUTCHESS, a municipal corporation with offices at 22 Market Street, Poughkeepsie, New York 12601 (hereinafter referred to as the "County"), and DUTCHESS LAND CONSERVANCY, INC., with offices at 4289 Route 82, Millbrook, New York 12545 (hereinafter referred to as the "Conservancy").

### *WITNESSETH:*

WHEREAS, the Conservancy has been working with project partners Hudson Highlands Land Trust, Inc. a New York not-for-profit corporation with an office located at 20 Nazareth Way, Garrison, New York 10524 (hereinafter "HHLT"), and The Scenic Hudson Land Trust, Inc. a New York not-for-profit corporation with an office located at One Civic Center Plaza, Suite 200, Poughkeepsie, New York 12601 (hereinafter "SHLT"), to acquire a Conservation Easement on approximately 39.277 acres owned by ND-4, LLC, located on Jackson Road in the Town of East Fishkill, Dutchess County, New York, and more particularly described in said Conservation Easement (the "Property"), and

WHEREAS, the Conservancy will execute a partner agreement with SHLT and HHLT to help fund the acquisition of a Conservation Easement on the Property. The County will provide 50% of the purchase price of the Conservation Easement through the Dutchess County Partnership for Manageable Growth/Open Space and Farmland Protection Matching Grant Program and the remaining 50% required to match the County's contribution will be provided by a combination of contributions from the Conservancy, SHLT, HHLT, and ND-4, LLC. ND-4, LLC's contribution will be made in the form of a bargain sale of the Conservation Easement.

WHEREAS, as a result thereof, the Conservancy shall hold the Conservation Easement on the Property, assuming such rights, obligations, and responsibilities as set forth therein, and the County shall have third party enforcement rights pursuant to the terms of the Conservation Easement, and

WHEREAS, the Conservancy, in its role as a conservation organization, has obtained extensive experience monitoring and administering conservation easements, and as holder of the Conservation Easement, shall monitor and administer this Conservation Easement in furtherance of the shared farmland conservation goals of the County and the Conservancy, and

WHEREAS, this Agreement shall further define those rights, obligations and responsibilities associated with monitoring and administering the Conservation Easement,

NOW, THEREFORE, it is mutually agreed by and between the parties as follows:

**1. SCOPE OF SERVICES.** The Conservancy is primarily responsible for enforcement of the Conservation Easement and for monitoring the Property in a systematic manner to ensure compliance with the terms of the Conservation Easement, as further set forth in the Conservation Easement, attached hereto and incorporated herein as "Exhibit A." The Conservancy shall provide, using the standards of care that a prudent person would use in the protection and preservation of its own resources and, in strict compliance with all applicable federal, state and local laws, regulations

and procedures, the services as set forth on "Exhibit B" annexed hereto and made a part of this Agreement.

If any term of the Scope of Services (Exhibit B) contradicts or creates an ambiguity with any term of this Agreement, this Agreement shall govern.

2. TERM OF AGREEMENT. This Agreement shall become effective upon the conveyance of a Conservation Easement by ND-4, LLC to the Conservancy on approximately 39.277 acres in the Town of East Fishkill, as described in the Conservation Easement (also identified by the following Tax Map Parcel Numbers: 132800-6555-00-135985, 132800-6555-00-290980, 132800-6555-00-300993, 132800-6555-00-331929, 132800-6556-00-306029). This Agreement and shall remain in effect as long as the Conservancy holds the Conservation Easement.

3. PAYMENT. The Conservancy has undertaken its responsibilities hereunder because the Conservation Easement to be acquired protects the agricultural values and natural resources of the Property and promotes the use of sound agricultural practices, which will further its charitable purposes of preserving the natural, ecological, cultural and scenic values of Dutchess County. In recognition of the costs the Conservancy may incur in monitoring compliance with the Conservation Easement, the Conservancy will deposit, from its own funds, a one-time stewardship fee of \$7,600.00 into an appropriate account to defray the costs of monitoring and administering the above referenced Conservation Easement.

4. INDEPENDENT CONTRACTOR'S STATUS. The Conservancy agrees that it is an independent contractor and that it shall not hold itself out to be an employee or officer of the County, and that no federal, state or local income or payroll tax of any kind shall be withheld or paid by the County on behalf of the Conservancy or its employees; that the Conservancy shall not be eligible for, and shall not be entitled to participate in, any employee pension, health, retirement or other fringe benefit plan of the County; that the Conservancy shall have no workers' compensation or disability coverage through the County for the Conservancy or its employees, and that the Conservancy shall not be entitled to make any claim against the County for these or any other rights or privileges of an officer or employee of the County.

5. INDEMNIFICATION BY THE CONSERVANCY. The Conservancy shall hold the County harmless from any and all claims or causes of action for damages arising directly or indirectly out of its negligence in the discharge of its responsibilities pursuant to this Agreement.

6. INDEMNIFICATION BY THE COUNTY. The County shall hold the Conservancy harmless from any and all claims or causes of action for damages arising directly or indirectly out of its negligence in the discharge of its responsibilities pursuant to this Agreement.

7. INSURANCE REQUIREMENTS. At all times during the term of this Agreement, the Conservancy shall maintain at its own cost the following insurance and shall provide proof thereof to the County, in the form of a Certificate of Insurance, prior to commencing work under this Agreement:

- (a) Statutory Worker's Compensation coverage in compliance with the Compensation Law of the State of New York.

- (b) General Liability Insurance coverage in the comprehensive or commercial general liability form including blanket contractual coverage for the operation of the program under this Agreement in the amount of \$1,000,000.00. This insurance shall include coverage for bodily injury and property damage and shall be on an occurrence form with a waiver of subrogation. The County must be listed as an additional named insured.

Prior to cancellation or material change in any policy, a thirty (30) day notice shall be given to the County Attorney at the address listed below:

Dutchess County Attorney  
County Office Building  
22 Market Street  
Poughkeepsie, New York 12601

On receipt of such notice, the County shall have the option to cancel this Agreement without further expense or liability to the County, or to require the Conservancy to replace any cancelled insurance policy, or rectify any material change in the policy, so that the insurance coverage required by this paragraph is maintained continuously throughout the term of this Agreement in form and substance acceptable to the County. Failure of the Conservancy to take out or maintain, or the taking out or the maintenance of any required insurance, shall not relieve the Conservancy from any liability under this Agreement.

All Certificates of Insurance shall be approved by the County Director of Risk Management prior to commencement of any work under this Agreement.

All policies of insurance referred to above shall be underwritten by companies authorized to do business in the State of New York and acceptable to the County. In addition, every policy required above shall be primary insurance and any insurance carried by the County, their officers, or its employees shall be excess and not contributory insurance to that provided by the Conservancy. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Conservancy shall be solely responsible for any deductible losses under each of the policies required above. Proof of additional insured coverage shall be evidenced through an additional insured endorsement provided by the insurance carrier.

In the event that claims in excess of these amounts are filed in connection with this Agreement, the excess amount or any portion thereof may be withheld from payment due or to become due the Conservancy until the Conservancy furnishes such additional security, as is determined necessary by the County.

**9. USE OF PRIVATE AUTOMOBILES.** The Conservancy represents that it does not own any automobiles and its employees use their own private automobiles when an automobile is necessary for Conservancy business. The Conservancy will ensure all of its employees and any others, discharging responsibilities pursuant to this Agreement, shall be licensed to drive in New York State and shall have, at least, the statutory insurance coverage required by New York State Law.



**10. QUALIFICATIONS OF CONSERVANCY.** The Conservancy represents it is a New York not-for-profit corporation within the meaning of Article 49, Title 3 of the Environmental Conservation Law of the State of New York (together with any successor statute, the "ECL"), is organized for, among other purposes, conserving real property, is a tax-exempt and qualified organization within the meaning of Sections 501(c)(3), 509(a)(1) and 170(b)(1)(A)(iv) of the Internal Revenue Code, and is a "qualified organization" to accept, purchase, and hold Conservation Easements under Section 170(h) of the Internal Revenue Code and Treasury Regulation Section 1.170A-14(c); and the Conservancy covenants that it will take all actions necessary to maintain such status at all times during the term of this agreement.

The Conservancy specifically represents that it, and its members, officers, employees, agents, servants, consultants and sub-contractors, have the experience, knowledge, and character necessary to perform their particular duties under this Agreement.

**11. NON-DISCRIMINATION.** No services to be rendered pursuant to, or in connection with, this Agreement may be refused to any person because of age, race, color, creed, sex, national origin, disability or marital status.

The Conservancy shall take all affirmative steps necessary to ensure equal employment opportunities without discrimination because of age, race, creed, color, sex, national origin, disability or marital status and to comply with all federal, state and local civil rights laws including, but not limited to, the Americans with Disabilities Act.

**12. RETENTION OF RECORDS.** The Conservancy agrees to maintain and have available for audit such records as may be required by the County, New York State or United States governmental agencies related to this Agreement and the Conservation Easement. These records shall be available for inspection by properly identified personnel of the above governmental agencies upon reasonable notice. The Baseline Documentation Report, monitoring records, and all correspondence pertaining to the Conservation Easement shall be permanently maintained by the Conservancy in an Archival Storage Facility. All other records pertaining to the Conservation Easement shall be maintained for a period of six (6) years on an ongoing basis unless the County requires otherwise. In such event, the County shall, upon request of the Conservancy, provide an Archival Storage Facility for such other records.

In the event that the Conservancy were to cease to exist, cease to be a qualified organization under Section 170(h) of the Internal Revenue Code, or cease to be qualified to acquire and hold conservation easements under Article 49, Title 3, of the Conservation Law, the Conservancy agrees to transfer all records associated with this Agreement and the Conservation Easement to the County or to such private non-governmental organization or public agency, which has agreed to assume the responsibility of holding the Conservation Easement.

**13. NON-ASSIGNMENT.** This Agreement may not be assigned by the Conservancy or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous written consent of the County.

**14. EXECUTORY.** This Agreement shall be deemed executory only to the extent of moneys appropriated and available to the County for the purpose of this Agreement, as specified in the County's adopted Budget, and no liability on account thereof shall be incurred by the County beyond the amount of such moneys. It is understood and agreed that neither this Agreement nor

any representation by any public employee or officer creates any legal or moral obligation to request, appropriate, or make available moneys for the purpose of this Agreement.

15. NOTICE. Except as otherwise provided in this Agreement, notice required to be given pursuant to this Agreement shall be made in writing and addressed to the following or such other person as the parties may designate:

If to the County: any notices necessary or convenient hereunder shall be directed in writing to the Dutchess County Attorney and the Dutchess County Commissioner of Planning and Development, or their successors at their official addresses, which at present are:

Dutchess County Attorney  
22 Market Street  
Poughkeepsie, New York 12601  
Attn: Carol A. Bogle, Chief Assistant County Attorney

Dutchess County Commissioner of Planning and Development  
27 High Street  
Poughkeepsie, New York 12601  
Attn: Eoin Wrafter, Commissioner

If to the Conservancy: any notices necessary or convenient hereunder shall be directed in writing to the President, or her successor at her official address, which at present is:

Dutchess Land Conservancy, Inc.  
PO Box 138  
Millbrook, New York 12545  
Attn: Rebecca E. C. Thornton, President

16. NON-WAIVER. Failure of any party to exercise any rights under this Agreement for a breach thereof shall not be deemed a waiver thereof or a waiver of any subsequent breach.

17. SEVERABILITY. If any provision of this Agreement shall be held unenforceable, the rest of the Agreement shall nevertheless remain in full force and effect.

18. CHOICE OF LAW, VENUE. Any dispute arising directly or indirectly out of this Agreement shall be determined pursuant to the laws of the State of New York. The parties hereby choose the New York State Supreme Court, Dutchess County as the forum for any such dispute.

19. NO ARBITRATION. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration but must instead be heard in accordance with the paragraph above entitled "Choice of Law, Venue."

20. SERVICE OF PROCESS. In addition to the methods of service allowed by the New York State Civil Practice Law & Rules ("CPLR"), the Conservancy hereby consents to service of process on it by registered or certified mail, return receipt requested or by facsimile (fax) transmission. Service hereunder shall be complete when deposited in the United States mail, duly addressed and with proper postage or when the fax has connected. The Conservancy must promptly

notify the County, in writing, of each and every change of address to which service of process can be made. Service by the County to the last known addresses shall be sufficient. The Conservancy will have thirty (30) calendar days after service is complete in which to respond.

21. CAPTIONS. The captions are inserted only as a matter of convenience and reference, and in no way define, limit or describe the scope or intent of this Agreement nor in any way affect the terms hereof.

22. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be an original and shall constitute the same Agreement.

23. GENDER. Words of the masculine or feminine gender in this Agreement, unless the meaning of the sentence indicates otherwise, shall be deemed to refer to either male or female persons.

24. ENTIRE AGREEMENT. The terms of this Agreement, including its attachments and exhibits, represent the final intent of the parties. Any modification, rescission or waiver of the terms of this Agreement must be in writing and executed and acknowledged by the parties with the same formalities accorded this basic Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney's Office

ACCEPTED: COUNTY OF DUTCHESS

By: \_\_\_\_\_  
Marcus J. Molinaro, County Executive

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Commissioner of Planning & Development

ACCEPTED: Dutchess Land Conservancy, Inc

By: \_\_\_\_\_  
Rebecca E. C. Thornton, President

STATE OF NEW YORK     )  
                              )  
COUNTY OF DUTCHESS    )     SS:

On this        day of                   , 20\_\_ , before me, the undersigned, personally appeared **Marcus J. Molinaro** , personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK     )  
                              )  
COUNTY OF DUTCHESS    )     SS:

On this        day of                   , 20\_\_ , before me, the undersigned, personally appeared **Rebecca E.C. Thornton**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

EXHIBIT "A"  
CONSERVATION EASEMENT

## EXHIBIT B SCOPE OF SERVICES

The parties recognize that this Scope of Service outlines the monitoring techniques presently contemplated. As these techniques change over time, the general intent of this Scope of Services will be maintained.

- A. **General Approach**
  - In-person site visit and/or fly over property by aerial over flight by Conservancy staff to ensure compliance with the Conservation Easement.
- B. **Minimum Frequency for Monitoring Visits**
  - Aerial monitoring to occur annually, typically in the late fall to early spring when the foliage is off vegetation. Ground monitoring of the property to occur approximately once every three years. Monitoring during hunting season will be avoided.
- C. **Procedure**
  - Verify property ownership before monitoring to detect any changes.
  - Contact landowner by letter well in advance of visit. Site visits can be done with landowner present, although it is not necessary for the landowner to be present during the visit.
  - Review baseline file including:
    - (1) Conservation Easement or Conservation Easement Summary
    - (2) Baseline documentation maps and photographs
    - (3) Existing Conditions Report
    - (4) Previous monitoring records
- D. **Ground Monitoring**
  - Visit property, bringing:
    - (1) easement summary
    - (2) copy of easement
    - (3) camera, back up camera
    - (4) survey plan (or other detailed map)
    - (5) baseline documentation map showing site features (or topographic map with property boundaries drawn in)
    - (6) easement inspection form/monitoring log (attached hereto)
    - (7) compass, measuring tape, measuring wheel or string, fluorescent flagging, bug repellent (in season), sturdy clothing, boots, blaze orange/red hat and/or vest/jacket, whistle, compass, pens/pencils, field notebook, scale, Swiss army knife, water bottle, etc.
    - (8) photo location map/baseline photos
    - (9) copy of baseline map to make notes on
  - Meet with landowner (upon request), review easement terms, answer any questions
  - Inspect property:
    - (1) find and walk boundaries
    - (2) check any likely trouble spots
    - (3) check special conservation features, e.g. location of rare plants
    - (4) note any significant changes, natural or manmade

- (5) photograph changes or trouble area and map photo locations on baseline copy
- (6) fill out inspection form (this can be done back at the office using notes taken in the field)
- (7) identify problems that need follow-up

**E. Aerial Monitoring**

- Aerial monitoring to be performed by Conservancy staff who know the property and can interpret the property from the air
- Prepare flight plan
  - (1) Easement summary
  - (2) Camera, back up camera
  - (3) Baseline documentation map showing features (or topographic map of aerial photograph with property boundaries drawn in)
  - (4) Notebook, pens/pencils
- Note any changes/questionable areas and take photographs
- Follow up questionable areas with on-the-ground inspection

**F. Post-Inspection Record Keeping**

- Fill out inspection form, sign and date it
- Key new photos to map using field notes and map; label and file photographs in baseline file
- Send landowner letter summarizing findings
- Send County letter summarizing findings
- Store monitoring records safely together. Archive originals with original Baseline Documentation Report and keep one copy in the office for reference.

**G. Landowner Relationships**

- Landowner Contact – a good working relationship with the landowner is fundamental to a successful stewardship program
  - (1) Build a spirit of cooperation, beginning before easements are signed
  - (2) Explain monitoring program, easement holder's role in enforcement, what the landowner can expect
  - (3) Personally contact a new landowner any time land changes hands, even within the same family
  - (4) Make sure new owner understands the purposes and terms of the easement and the monitoring program
  - (5) Maintain personal contact with all landowners periodically, even if aerial monitoring

**H. Handling Violations**

- In the event of a violation of, or non-compliance with, the terms of the Conservation Easement, the Conservancy will notify the County in writing within 48 hours or two business days of the discover.
- The Conservancy, as lead monitor, will then notify the landowner about the violation.
- The Conservancy shall try to resolve the problem through negotiation:
  - (1) Establish plan for restoration and set a deadline for compliance
  - (2) Follow up all contacts in writing, via certified mail
  - (3) Inspect restoration work and document compliance



- Consult County Attorney's office if violation activity continues or if landowner refuses to cooperate with restoration plan.

ATTACHMENT TO RESOLUTION

GRANT AGREEMENT

# GRANT AGREEMENT

## FOR THE ACQUISITION OF CONSERVATION EASEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between ND-4, LLC, a New York limited liability company, with an address at 40 Wall Street, 35<sup>th</sup> floor, New York, New York 10005 (the "Owner"); the COUNTY OF DUTCHESS, a municipal corporation with offices at 22 Market Street, Poughkeepsie, New York 12601 (the "County"); and DUTCHESS LAND CONSERVANCY, INC. with offices at 4289 Route 82, Millbrook, New York 12545 ("DLC").

### WITNESSETH:

WHEREAS, the Owner is the sole owner in fee simple of real property (the "Property") which consists of approximately 39.277 acres and desires to sell and convey to DLC a conservation easement on the Property, more fully described in "Exhibit A" attached hereto and incorporated by reference, located on Jackson Road in the Town of East Fishkill, Dutchess County, New York (Tax Grid Numbers: 6555-00-135985, 6556-00-306029, 6555-00-300993, 6555-00-290980 and 6555-00-331929); and

WHEREAS, DLC has been working with project partners Hudson Highlands Land Trust, Inc. a New York not-for-profit corporation with an office located at 20 Nazareth Way, Garrison, New York 10524 (hereinafter "HHLT"), and The Scenic Hudson Land Trust, Inc. a New York not-for-profit corporation with an office located at One Civic Center Plaza, Suite 200, Poughkeepsie, New York 12601 (hereinafter "SHLT"), to acquire a Conservation Easement on the Property, and

WHEREAS, the County will help fund the acquisition of a Conservation Easement on the Property by providing 50% of the funds needed toward the agreed upon purchase price of the Conservation Easement through the Dutchess County Partnership for Manageable Growth/Open Space and Farmland Protection Matching Grant Program, and the remaining 50% required to match the County's contribution will be provided by equal contributions from DLC, SHLT and HHLT.

WHEREAS, DLC wishes to purchase such conservation easement provided the needed matching funds are available through the Dutchess County Partnership for Manageable Growth/Open Space and Farmland Protection Matching Grant Program authorized by the County pursuant to Resolutions \_\_\_\_\_ and \_\_\_\_\_, as well as from DLC, HHLT, SHLT and from the Owner in the form of a bargain sale.

Now, therefore, the parties agree as follows:

1. **PURCHASE OF CONSERVATION EASEMENT.** The Owner agrees to sell and convey to DLC, and DLC agrees to purchase from the Owner, a conservation easement (the "Conservation Easement") on the Property upon the terms and conditions hereinafter set forth.

Among other terms under the Conservation Easement, DLC shall hold the Conservation Easement and have enforcement rights pursuant to the terms of the Conservation Easement, and the County shall have third party enforcement rights pursuant to the terms of the Conservation Easement. DLC and the County shall have the right to claim portions of the monetary value of the Conservation Easement in the event the Conservation Easement is extinguished pursuant to the terms of the Conservation Easement. The Conservation Easement shall be substantially in the form attached to this Agreement as "Exhibit B."

2. PAYMENT. The purchase price for the Conservation Easement shall be One Hundred Sixty Thousand Dollars (\$160,000), payable in full at Closing in accordance with paragraph 3 below and subject to the contingencies set forth in paragraph "4". The purchase price shall be raised from the following sources: the Dutchess County Partnership for Manageable Growth/Open Space and Farmland Protection Matching Grant Program, \$80,000; from DLC, \$26,666; from HHLT, \$26,667; and from SHLT, \$26,667.

\* The exact amount of total project costs, which are to be paid by DLC, include the purchase price, appraisal, survey, closing and administrative costs, and are to be determined at the closing. The Owner shall be responsible for their own costs and fees in relation to this agreement, including the New York State Transfer Tax.

The Property to be subject to the conservation Easement is shown on a survey map completed by Jonathan L. Verderber, Licensed Land Surveyor, titled "Land Survey for Farmland Protection" dated September 6, 2016, attached hereto as "Exhibit C". The survey map will be filed with Office of the Dutchess County Clerk prior to closing. The survey shall be certified to the Owner, the County, DLC, HHLT, and SHLT, and Westcor Land Title Insurance Company. Cost of the survey will be borne by DLC subject to a closing taking place.

3. APPRAISAL. The Real Property Appraisal Report prepared by Paul Herrington, ARA of Farm Credit East ACA, dated August 24, 2016, values the Property at \$471,000, and the Conservation Easement at Two Hundred and Thirty-Six Thousand Dollars (\$236,000), or (approximately) \$6,008 per acre (allowing limited residential use consistent with the agricultural use of the property.) The Owner has agreed to sell the Conservation Easement on the Property annexed hereto as Exhibit B to the DLC for One Hundred and Sixty Thousand Dollars (\$160,000), Seventy-Six Thousand Dollars (\$76,000) less than the appraised value.

4. CLOSING. Closing shall take place at the offices of DLC's attorney, at DLC's office, or such other location as the parties may agree. Said Closing will take place on or about November 15, 2016, or as soon thereafter as practicable, promptly after funds are made available therefore, pursuant to the Dutchess County Partnership for Manageable Growth/Open Space and Farmland Protection Matching Grant Program, DLC, HHLT and SHLT as referenced above.

4. CONTINGENCIES. This Agreement, and the closing are subject to the following contingencies:

(a) Approval of the proposed Conservation Easement ("Exhibit B") by DLC's Board of Directors, which approval has been given, and the County, HHLT, and SHLT.

(b) Receipt by DLC of the funds necessary to purchase the Conservation Easement from the Dutchess County Partnership For Manageable Growth/Open Space and Farmland Protection Matching Grant Program \$80,000, from DLC, \$26,666; from HHLT, \$26,667; and from SHLT, \$26,667.

(c) Conveyance of title satisfactory to the County, DLC, HHLT, and SHLT, subject only to utility company rights, licenses and/or easements to maintain pole, lines, wires and other installations presently servicing the property providing same do not, in the judgment of funding agencies, significantly impede the purposes of the Conservation Easement or significantly reduce its value.

(d) Any documentation, approvals or consents as may be required by the County, DLC, HHLT, or SHLT in order to comply with Program requirements.

(e) Conveyance, free of all mortgages and encumbrances of any nature whatsoever including the Government's Judgment Lien described in Section 6 "Owner's Representations" below or, if any such mortgages or encumbrances exist, subordination of such mortgages or encumbrances to the Conservation Easement to the satisfaction of the County, DLC, HHLT, and SHLT.

5. **CANCELLATION.** If the contingencies set forth in Section 4 are not satisfied, the County or DLC may cancel this Agreement on written notice to the Owner and no party will have any claim or cause of action against any other arising out of this Agreement. Notwithstanding the above, if the parties have not successfully closed this matter by July 20, 2017, the Owner may cancel this Agreement upon written notice to DLC at their address as shown herein, attention Rebecca E. C. Thornton, President, and no party shall have any claim or cause of action for damages against any other party arising out of this Agreement.

6. **OWNER'S REPRESENTATIONS.** The Owner represents that it has, and will have at the closing, the power to sell, transfer and convey the Conservation Easement to DLC subject only to the terms of this agreement; that other than a judgment lien existing against the Property in favor of the Government and that the Owner shall deliver a signed release of the Government's Judgment Lien at Closing, the Owner is not aware of any other actions or proceedings which affect the Owner's title to the Property; that there are no uncured notices which have been served upon the Owner by any governmental agency other than the aforementioned judgment lien, notifying the Owner of any violations of law, ordinance or regulation which would affect the Property, or actual impending mechanics liens against the Property; and that the Owner has not entered into, nor does there exist any license, lease, option, right of first refusal or other agreement, which affects title of the Property or would affect its obligations hereunder.

The Owner has no knowledge of any condition at, on, under or related to the Property presently or potentially posing a significant hazard to human health or to the environment (whether or not such condition constitutes a violation of law that would result in liability to the Owner, County or DLC under any Federal, State or local environmental laws).

Should any of the above representations or warranties cease to be true at any time prior to the closing, the Owner shall immediately so advise the County and DLC in writing, except in so far as the Owner has advised the County and DLC to the contrary, each of the above representations and warranties shall be deemed to have been made as of the closing and shall survive the closing.

7. NO BROKERS COMMISSION. Each of the parties represents no broker was used in connection with this Agreement or with any of the transactions contemplated herein.

8. SEVERABILITY. Each provision of this Agreement is severable from any and all other provisions of the Agreement. Should any provision of this Agreement be, for any reason, unenforceable, the parties shall negotiate an equitable adjustment in the provisions of this Agreement with a view to effecting the purpose of this Agreement and enforceability of the remaining provisions of this Agreement shall not be effected thereby.

APPROVED AS TO FORM:

ACCEPTED: COUNTY OF DUTCHESS

By: \_\_\_\_\_  
 Marcus J. Molinaro, County Executive

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me, the undersigned, personally appeared Marcus J. Molinaro, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

LANDOWNER

ND-4, LLC

By: \_\_\_\_\_

Joseph Manne

Title: \_\_\_\_\_

DUTCHESS LAND CONSERVANCY, INC.

By: \_\_\_\_\_

Rebecca E. C. Thornton

President

STATE OF NEW YORK )

)

SS:

COUNTY OF DUTCHESS )

On this       day of       , 2016, before me, the undersigned, personally appeared **Joseph Manne**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )

)

SS:

COUNTY OF DUTCHESS )

On this       day of       , 2016, before me, the undersigned, personally appeared **Rebecca E.C. Thornton**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public



EXHIBIT "A"  
LEGAL DESCRIPTION

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being in the Town of East Fishkill, Dutchess County, New York, more particularly described as follows:

**Parcel 1**

Beginning at a point in the northerly right of way line of Jackson Road; thence along the lands N/F Jackson, et al (Doc #02 2013 5659) the following bearings and distances:

- N81°46'00"W for 673.90'
- S39°28'00"W for 734.84'
- N56°25'20"W for 551.81'
- N54°46'42"W for 171.50'
- N29°25'00"W for 199.43' to a point;

thence along Interstate Highway Route 84 the following bearings and distances:

- N72°40'25"E for 390.78'
- N54°42'37"E for 578.68
- N67°07'57"E for 148.80' to a point;

thence along the lands N/F Egg Farm Dairy, LLC (Doc #02 2005 7483) the following bearings and distances:

- S22°52'03"E for 450.00'
- N67°07'57"E for 424.90'
- N74°06'17"E for 372.83'
- S50° 42'07"E 256.70' to a point on the northern right of way line of Jackson Road;

thence along the Jackson Road S41°54'40' for 410.59' to the point or place of beginning.  
Containing 20.873 acres more or less.

**Parcel 2**

Beginning at a point along the southerly Right of Way line of Jackson Road said point being the northwest corner of Farmstead Area #2; thence N31°34'40"E for 42.25'; thence continuing along the Right of Way line of Jackson Road N15°40'00"E for 49.61'; thence N81°01'30"E for 63.79'. Thence along the lands N/F Ramp to Parkway the following bearings and distances:

- N38°38'00"E for 56.42'
- S51°18'30"E for 61.27'
- S44°56'20"E for 264.49'
- S49°04'50"E for 237.39' to a point;

thence along the lands N/F ND-4 LLC N65°47'10"W for 452.64'; thence along the lands N/F Farmstead Area #2 N65°47'10"W for 148.46' to the point of beginning.

Containing 1.239 acres more or less.

### Parcel 3

Beginning at a point, said point being on the southerly bounds of Jackson Road and also being the southwest corner of N/F ND-4 LLC (Doc #02 2010 4966) ; thence along lands N/F ND-4 LLC S65°47'10"E for 601.10'; thence along lands N/F Taconic State Parkway the following bearings and distances:

- S29°58'20"E for 197.95'

- S15°47'40"W for 272.73' to a point;

thence along the lands N/F ND-4 LLC N59°42'50"W for 858.74' to a point on the southerly right of way line of Jackson Road; thence along Jackson Road N39°03'40"E for 108.60' and N31°34'40"E 191.39' to the point and place of beginning.  
Containing 6.018 acres more or less.

### Parcel 4

Beginning at a point along the southerly Right of Way line of Jackson Road, thence along the lands N/F Farmstead Area #2 S59°42'50"E for 146.53'; thence along the lands N/F ND-4 LLC S59°42'50"E for 712.21' to a point; thence along the Taconic State Parkway S15°47'40"W for 92.00'; thence along the lands N/F ND-4 LLC N82°45'00"W for 991.12'; continuing along the lands N/F ND-4 LLC, thence N48°05'20"W for 56.71'; thence along the southerly Right of Way line of Jackson Road the following bearings and distances:

- N41°54'40"E for 278.83'

- N39°03'40"E for 194.65' to the point of beginning.

Containing 6.013 acres more or less.

### Parcel 5

Beginning at a point along the southerly Right of Way line of Jackson Road, thence continuing along the southerly Right of Way line of Jackson Road N41°45'40"E for 100.00' to a point; thence along the lands N/F ND-4 LLC the following bearings and distances:

- S48°05'20"E for 56.71'

- S82°45'00"E for 991.12' to a point;

thence along the Taconic State Parkway for the following bearing and distances:

- S15°47'40"W for 17.22

- S83°54'30"E for 87.01

- S20°14'00"W for 822.05' to a point;

thence along the lands N/F Jackson, et al. for the following bearings and distances:

- N69°02'00"W for 347.96'

- N40°02'40"E for 793.88'

- N79°22'00"W for 159.51'

- N81°58'50"W for 523.72'

- N82°45'00"W for 403.43' to the point of beginning.

Containing 5.134 acres more or less.

EXHIBIT "B"  
CONSERVATION EASEMENT

**DEED OF CONSERVATION EASEMENT  
and Right of First Refusal**

Between

**ND-4, LLC**

as Grantor

and

**DUTCHESS LAND CONSERVANCY, INC.**

as Grantee

Draft  
September 28, 2016

DEED OF CONSERVATION EASEMENT  
and Right of First Refusal

THIS CONSERVATION EASEMENT ("Conservation Easement" or "Easement"), including a Right of First Refusal, is granted this \_\_\_\_ day of \_\_\_\_\_ 2016, by ND-4, LLC, with an address of 40 Wall Street, New York, New York, 10005, as Grantor (the "Grantor") to DUTCHESS LAND CONSERVANCY, INC., a New York not-for-profit corporation having an address of 4289 Route 82, Millbrook, New York 12545, as Grantee (the "Grantee" or the "Conservancy")

WHEREAS:

- A. Grantor is the owner of certain real property (the "Property") consisting of approximately 39.25 acres, in 5 tax map parcel(s) located on Jackson Road in the Town of East Fishkill, Dutchess County, New York, more fully described in the legal description of the Property ("Exhibit A") and shown on the Easement Map ("Exhibit B"), both attached hereto and as depicted on a survey of the Property titled "Subdivision Plat for Kelly-Manne Co.", prepared by Ernst Martin, Licensed Land Surveyor, dated July 1971, and filed in the Dutchess County Clerk's Office on August 18, 1971 as Filed Map No. 3860, and also on a survey map titled "\_\_\_\_", prepared by \_\_\_\_\_, licensed land surveyor, dated \_\_\_\_\_, and filed in the Dutchess County Clerk's Office on \_\_\_\_\_ as Filed Map No. \_\_\_\_\_.
- B. Grantee is a New York not-for-profit conservation organization within the meaning of Article 49, Title 3 of the Environmental Conservation Law of the State of New York (together with any successor statute, the "ECL"), is organized for, among other purposes, conserving real property, is a tax exempt and qualified organization within the meaning of Sections 501(c)(3), 509(a) and 170(b)(1)(A)(vi) of the Internal Revenue Code (the "Code"), and is a "qualified organization" to accept, purchase, and hold conservation easements under Section 170(h) of the Code and Treasury Regulation Section 1.170A-14(c).
- C. The Property meets the Criteria for Acceptance of Easements of the Grantee and is in close proximity to private land which is already permanently protected by the Grantee.
- D. Article 14, Section 4 of the New York State Constitution states: "The policy of the state shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products."
- E. Section 49-0301 of the ECL states: "The legislature hereby finds and declares that in order to implement the state policy of conserving, preserving and protecting its environmental assets and natural and man-made resources, the preservation of open spaces, the preservation, development and improvement of agricultural and forest lands, ..., is fundamental to the maintenance, enhancement and improvement of...balanced economic growth and the quality of life in all areas of the state."

- F. The Property is actively farmed. The 2009 New York State Open Space Conservation Plan prepared by the Department of Environmental Conservation, the Office of Parks, Recreation and Historic Preservation, and the Department of State lists farmland protection as a critical component of the State's overall efforts to conserve open space, stating, "This land provides fresh produce, scenic open space, vital wildlife habitat, and the economic backbone to many communities."
- G. The Property is located in an area identified as a Hudson River Estuary Area of Biological Concern in *Wildlife and Habitat Conservation Framework: An Approach for Conserving Biodiversity in the Hudson River Estuary Corridor*, (the "Conservation Framework") produced in 2006 by New York Cooperative Fish and Wildlife Research Unit at Cornell University, and New York State Department of Environmental Conservation, Hudson River Estuary Program. Located within the Hudson River Valley, the Hudson River Estuary Area is an area of high biological and geological diversity, and significant within the context of biodiversity in New York State and the New England and Mid-Atlantic portions of the United States. The Hudson River Estuary Area faces conservation threats such as habitat loss and fragmentation, and the Conservation Framework recommends protecting large, contiguous, unaltered tracts of land, including preservation of farmland through the use of conservation easements, as means to protect the biodiversity of the Hudson River Estuary Area.
- H. There is a stream running through the Property. The *Comprehensive Wildlife Conservation Strategy Plan* ("the CWCS Plan") prepared by New York State Department of Environmental Conservation recommends securing stream and adjacent uplands habitat through conservation easements and similar measures, as means to protect species dependent upon healthy riparian and floodplain habitats. Protecting these habitats helps to maintain necessary channel condition for *Species of Greatest Conservation Need*, such as mollusks and brook trout. The wood turtle and eastern ribbonsnake require the availability of adjacent upland habitats for completion of their life cycle. Stream salamanders benefit from protection of riparian buffers that stabilize banks and filter sediment from runoff, thus preventing sedimentation of breeding habitat. Furthermore, the CWCS Plan recommends that land protection focus on habitat complexes - riparian and floodplain forest, wetland, and meadow complexes- that support the life cycle needs of *Species of Great Conservation Need* and contribute to in-stream habitat quality (e.g., undercut banks, supply of coarse particulate organic matter, geomorphic structure, shading).
- I. The Property is within close proximity to Dutchess County Wetlands Complex of East Fishkill, a Significant Land Habitat Complex delineated by United States Fish and Wildlife Service. The Property lies within a rare animal area as indicated by NYS Department of Environmental Conservation's Environmental Resources Mapper, and is in close proximity to two endangered species observations recorded by New York Natural Heritage Program.

- J. The Property is located within Dutchess County's Agricultural District #22, created pursuant to Article 25-AA of the New York State Agriculture and Markets Law (the "AML"). More specifically, Section 300 states: "It is hereby found and declared that many of the agricultural lands in New York State are in jeopardy of being lost for any agricultural purposes. When nonagricultural development extends into farm areas, competition for limited resources results. ... It is, therefore, the declared policy of the state to conserve, protect and encourage the development and improvement of its agricultural land for production of food and other agricultural products. ... It is the purpose of this article to provide a locally-initiated mechanism for the protection and enhancement of New York state's agricultural land as a viable segment of the local and state economies and as an economic and environmental resource of major importance."
- K. Article 25-AAA, Section 321 of the AML states: "It is hereby found and declared that agricultural lands are irreplaceable state assets. In an effort to maintain the economic viability, and environmental and landscape preservation values associated with agriculture," the Commissioner is authorized to administer programs to assist counties in developing agricultural and farmland protection plans and to assist both county and municipal governments in the implementation of such plans. The Commissioner gives priority to projects that will preserve viable agricultural land, are located in areas facing significant development pressure and serve as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics.
- L. The Property is located within Dutchess County, which adopted an Agricultural and Farmland Protection Plan in March, 2015. The Plan recommends that Dutchess County and its partners "Continue to purchase the development rights on key farm properties — through multiple funding partners including federal, state, and local government, and local land trusts." It also recommends identifying "opportunities to create and/or build upon existing core areas of preserved farmland in each of the County's farming communities." The Plan also emphasizes the strong farmland conversion pressure that exists in Dutchess County, which can result in "a loss of farm production, open space, and loss of agricultural jobs..." The Property is located within an Agricultural Priority Area in the Plan, the priority areas containing farmland identified as being important for preservation.
- M. The Dutchess County Legislature, in the County Master Plan, *Directions*, adopted by the Dutchess County Legislature in 1988, has identified the area in which the Property is located as an area in which agricultural lands, rural uses, open space, streams and wetlands should be preserved. *Directions* emphasizes the preservation of prime agricultural soils and encourages open space land uses and the protection of scenic resources. Policy 4.4 supports efforts to maintain the vitality, and increase the diversity of agricultural enterprises in the county. Policy 4.5 supports local land use management techniques that serve to protect agricultural lands, especially within the agricultural districts. Policy 5.16 supports measures to preserve the county's prime and important agricultural soils. Policy 5.20 advocates the preservation of the county's scenic resources and significant natural areas. Policy 7.13 discourages the subdivision of prime and important agricultural soils and large forested tracts into lots which preclude the future

use for agriculture and forestry. *Directions* recommends low density development to prevent degradation of the area's rural, natural and scenic characteristics through subdivision and development; Policy 11.21 supports the use of conservation easements to preserve open space in rural areas.

- N. The Property is located within the Town of East Fishkill, which adopted a Comprehensive Plan (the "Master Plan") in November of 2002. The Master Plan includes in its goals: preserving East Fishkill's open space and natural resource lands, through the acquisition of development rights and conservation easements, to preserve open space and to encourage farming as a viable land use; encouraging the conservation and acquisition of open space to provide for long-term open space networks; preserving and protecting water bodies and the land along streams; protecting views along the Taconic State Parkway, a designated State Scenic Byway, including ridgeline vistas.
- O. The Master Plan states "open spaces provide a rural character that attracts people to East Fishkill and enhances the small-town charm. Agricultural practices retain large tracts of open land and tie residents to the Town's rural past", and recognizes the historical importance of agriculture to the economy of the Town.
- P. The Property consists primarily of productive agricultural land. The Property contains approximately 12 acres of prime soils, and approximately 13 acres of soils of statewide importance as defined by the U.S. Department of Agriculture Natural Resources Conservation Service.
- Q. The Property is in the watershed of the Fishkill Creek, a tributary of the Hudson River, and contains approximately 775 feet of frontage on a tributary to the Wicoppee Creek, a Class C(T) stream (H-95-13), which has been classified by the New York State Department of Environmental Conservation according to its best use for Fishing and Fish Propagation. This classification helps to meet the goals of the Federal Clean Water Act and encourages continuous protection to keep the stream clean for the future.
- R. The entire Property is part of a "Zone I" Aquifer Recharge Area, an area of permeable deposits directly overlying the aquifer through which water can move downward with little or no natural filtration because the water is moving too quickly, as defined by the *Dutchess County Water Supply Protection Program Report* prepared by Horsley, Witten, Inc., in 1993 for the Dutchess County Water and Wastewater Authority.
- S. The Property is in close proximity to, and within the viewshed of, land owned by the U.S. Department of the Interior, which is part of the Appalachian Trail Corridor, a significant public resource.
- T. The Property is known locally as part of the "Gateway to Dutchess County" located at the southwest junction of Interstate 84 and the Taconic State Parkway, where the farm vista signals one's arrival in pastoral Dutchess County and stands as a symbol of the County's agricultural and natural heritage. According to the NYS Department of Transportation,



more than 500,000 cars pass by this farm each week on the Taconic State Parkway and Interstate 84.

- U. Grantee has determined that accepting this Easement on the Property will enhance the long-term agricultural values of the Property and promote the use of soil conservation practices, which will further Grantee's charitable purposes of protecting the distinctive rural character of the Town of East Fishkill and its lands and waters of significant historic and ecological value.
- V. Grantor has agreed to sell this Conservation Easement to Grantee for a purchase price of \$160,000. The following organizations and public bodies have contributed funds to purchase this Easement: Hudson Highlands Land Trust: \$26,667 (16.667% of the purchase price), Scenic Hudson Land Trust: \$26,666 (16.667% of the purchase price), Dutchess County: \$80,000 (50% of the purchase price), and Grantee: \$26,667 (16.667% of the purchase price).
- W. Grantor has received independent legal and financial advice regarding this Easement to the extent that Grantor has deemed necessary. Grantor freely signs this Easement in order to accomplish its Conservation Purposes.
- X. Subdivision and development pressure threaten the continued rural, scenic, agricultural, ecological, and open space character of the Property and the scenic view along Jackson Road, Interstate 84 and the Taconic State Parkway. Its protection will not only serve as an example of the County's serious commitment to stimulating and supporting the farming industry, but will aid tourism development by showing the region that Dutchess County is serious about retaining its important iconic farm landscape and pastoral appearance.

NOW, THEREFORE, in consideration of the foregoing, One Hundred Sixty Thousand Dollars (\$160,000) and the mutual covenants, terms, conditions and restrictions contained herein, the parties agree as follows:

**1. Grant of Conservation Easement.**

Grantor hereby grants and conveys to Grantee a Conservation Easement, an immediately vested interest in real property defined by Article 49 of Title 3 of the ECL of the nature and character described herein, for the benefit of the general public, which Easement shall run with and bind the Property in perpetuity. Grantor will neither perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the covenants contained herein. Grantor authorizes Grantee to enforce these covenants in the manner described below.

**2. Purpose.**

The primary purpose of this Easement is to conserve Viable Agricultural Land by preventing the conversion of the Property to non-farm uses, except for those allowed herein. In achieving such prevention of conversion, the Property shall be forever preserved for continued Agricultural Use. All other purposes listed below shall be secondary and none shall conflict with or significantly diminish the primary purpose of this Easement.

The secondary purposes of this Easement include: conserving the scenic and iconic viewshed of the land as seen from public vantage points, including the Taconic State Parkway, Interstate 84 and Jackson Road, as well as the open and natural character of the Property and to protect the quality of its prime and important farmland soils, streams and wetlands, habitat, and scenic quality by restricting development and use of the Property. The primary and secondary purposes of this Easement are hereinafter referred to as the "Conservation Purposes." The Grantor and the Grantee intend that this Easement will confine the use of the Property to activities that are consistent with the Conservation Purposes of this Easement and will prohibit and prevent any use of the Property that will materially impair or interfere with the Conservation Purposes of this Easement.

**3. Implementation.**

This Easement shall be implemented by limiting and restricting the non-agricultural development and non-farm use of the Property in accordance with its provisions. The Property remains subject to all applicable local, state and federal laws and regulations. This Easement and the administration of its provisions shall not unreasonably restrict or regulate Farm Operations in contravention of the purposes of Article 25-AA of the AML.

**4. Definitions.**

4(a). "Accessory Apartment" shall be defined as a dwelling unit containing complete housekeeping facilities, including kitchen and bathroom facilities for one family, located within a Principal Residence, Accessory Structure or Agricultural Structure, subordinate or accessory to the Principal Residence or Farm Operation.

4(b) "Accessory Residence" shall be defined as a Residential Dwelling that is detached and separate from the Principal Residence, that is subordinate and secondary to the Principal Residence and located on the same lot, and that is typically used to house farm operator/manager, owners family members, farm labor, tenants, or guests of the Owner.

4(c). "Accessory Structures" shall be defined as all Structures that are incidental and subordinate to the use of the Principal Residence and which are not intended for human habitation (except those that include an Accessory Apartment or Accessory Residence), including, but not limited to sheds, garages, swimming pools, related changing facilities, lean-tos, woodsheds, sculptures, indoor recreational courts, outdoor recreational courts, well houses, and gazebos.

4(d). "Agricultural Use" shall be defined as those activities necessary to:

- i. produce "Crops, Livestock and Livestock Products"; or
- ii. use the Property as a "Farm Operation" to the extent permitted by this Easement; or
- iii. be actively enrolled in any federal or state or local program whose intent is to temporarily suspend (for a specified period of one or more years or crop seasons) the production of Crops, Livestock and Livestock Products for the

- stipulated purpose of soil and water conservation, wildlife habitat, or similar conservation purpose; or
- iv. manage the Property or a portion thereof in a fallow or otherwise idled manner provided such management is described in a Conservation Plan.
- 4(e). "Agricultural Structures" shall be defined as a Structure built for the purpose of, or utilized for, Agricultural Uses. Agricultural Structures shall include, but are not limited to, customary barns, sheds, greenhouses, animal shelters, and customary equestrian facilities. An Agricultural Structure may contain facilities or uses directly related to Agricultural Uses, such as a farm office and bathroom facilities, but may not be used for human habitation except as specifically permitted by this Conservation Easement.
- 4(f). "Commercial Uses" shall include, but are not limited to, the Agricultural Uses and Forestry Uses permitted herein, and, any use or activity undertaken for business purposes, excluding activities such as hobbies, in which obtaining a financial benefit is incidental to the purpose of the activity. Membership Clubs as defined herein shall not be considered Commercial Uses.
- 4(g). "Conservation Plan" shall be defined as an Agricultural Environmental Management (AEM) Conservation Plan (Tier 3 or higher), or such equivalent document that has been prepared by the local Soil and Water Conservation District, or other qualified conservation professional, in cooperation with the Grantor.
- 4(h). "Crops, Livestock and Livestock Products" shall be defined pursuant to Article 25-AA of the AML, or such successor law as enacted or amended. In the event that this definition or all of Article 25-AA (and all such successor laws) shall be repealed, then the definition existing at the time of repeal shall serve thereafter.
- 4(i). "Farm Labor Housing" means dwellings or Structures, together with accessory Improvements used to house seasonal and/or full-time employees where such residences are provided by the farm owner and/or operator, the worker is an essential employee of the farm owner and/or operator employed in the operation of the farm and the farm worker is not a partner or owner of the Farm Operation. For instance, a Structure used as the primary residence of a farm owner and/or operator is not "Farm Labor Housing".
- 4(j). "Farm Operation" shall be defined pursuant to Article 25-AA of the AML, or such successor law as enacted or amended. In the event that this definition or all of Article 25-AA (and all such successor laws) shall be repealed, then the definition existing at the time of repeal shall serve thereafter.
- 4(k). "Footprint Area" The Footprint Area of a Structure or Improvement shall be defined as the area of the Structure at the horizontal ground plane measured along its exterior walls. In the case of a Structure or Improvement that is not enclosed by walls, the Footprint Area shall be the total area covered by Impervious Surfaces.

- 4(l). "Forestry Uses" shall include, but are not limited to, gathering, cultivating, maintaining, harvesting or managing forests, woodlands, or tree plantations for timber, firewood or other useful products or for water quality, wildlife habitat and other conservation purposes.
- 4(m). "Grantor" includes the original Grantor and his/her/its heirs, successors and assigns.
- 4(n). "Grantee" includes the original Grantee(s) and its successors and assigns.
- 4(o). "Height" of a Structure or Improvement shall be defined as the measurement from the natural mean grade (prior to construction or grade alteration) to the top of the Structure or Improvement. Natural mean grade shall be calculated by averaging the natural grade at the highest and lowest points of the Structure or Improvement's proposed Footprint Area. In the case of a Structure or Improvement with a roof, the top of the Structure or Improvement, including any decorative Improvement but exclusive of chimneys, shall be considered the top of the roof line and measured accordingly.
- 4(p). "Impervious Surfaces" are defined as Structures or Improvements that permanently cover soil resources. Impervious Surfaces do not include permeable surfaces such as gravel roads and parking areas; Structures whose principal purpose is to protect soil and water resources, such as manure storage areas; and Structures and Improvements lacking permanent foundations. As used herein, "permanent foundations" are defined to be any continuous hardened surface (e.g., concrete, asphalt, or other similar stabilizing material) that is attached to, placed on or inserted in the ground and that underlies such building, Structure or Improvement.
- 4(q). "Improvement" shall be defined as anything, temporary or permanent, that is constructed, installed or placed on, over, under or across the Property (including a Structure as defined herein), and shall include, but is not limited to, driveways, farm roads and woods roads, trails, bridges, parking areas, fences, ponds, wells, septic systems, drainage ways, and utility lines.
- 4(r). "Industrial Uses" are Commercial Uses that involve the manufacture, assembly, treatment, processing, or packaging of products. Industrial Uses shall not include Agricultural Uses, Forestry Uses, or Customary Home Occupations as permitted by this Conservation Easement.
- 4(s). "Institutional Use" shall be defined as a use that provides services and/or accommodations to groups of unrelated individuals on a non-profit or for-profit basis for specific commercial or non-commercial purposes, including but not limited to hospitals, assisted living facilities, nursing homes, prisons, juvenile detention facilities, monasteries, retreat centers, religious worship and educational facilities, schools, universities, research institutes, conference centers, educational facilities not listed under the definition of "Educational Uses" herein, and mental health facilities.
- 4(t). "Owner" is defined as any individual or entity, including any heir, successor or

assign, of any legal or equitable interest in all or any portion of the Property, and any party entitled to the possession or use of all or any part thereof.

- 4(u). "Principal Residence" is defined as the primary or main Residential Dwelling on the Property, typically occupied by the Owner or farm operator / manager and family when the Owner is in residence on the Property.
- 4(v). "Recreational Uses" are defined as lawful personal or de minimus commercial activities including, but not limited to, hunting, fishing, cross-country skiing, camping, horseback riding and snowmobiling. Recreational Uses shall not include golf courses and ranges.
- 4(w). "Residential Dwelling" means a dwelling or Structure, together with accessory Improvements, including a single-family dwelling, Accessory Apartment, Accessory Residence, and Farm Labor Housing, whether or not the Structure is used as the primary residence of an Owner or farm operator or manager.
- 4(x). "Rural Enterprises" are defined as commercial activities conducted on the Property, which are clearly incidental, secondary, and subordinate to the Agricultural Use of the Property, and are owned by, and primarily operated by, the Grantor and other residents of the Property, with limited outside employees, including, but not limited to, professional office, home office of salesperson, artist's studio, arts instruction, bed and breakfast, crafts production and sales, computer repair, small engine repair, firewood distribution, and beauty salon.
- 4(y). "Structure" shall be defined as any building or object, temporary or permanent, with or without anchors or foundations, constructed, installed or placed on, over, under or across the Property and shall include but is not limited to a Residential Dwelling, barn, garage, shed, Renewable Energy Facility, porch, deck, and swimming pool.
- 4(z). The following "Use Areas" are depicted on Exhibit B and defined for the Easement:
- "Farmstead Area" is an area used for existing or future planned farm Structures.
- "Farm Area" is the remaining area of the Property outside the Farmstead Area.
- 4(aa). "Viable Agricultural Land" is defined as land highly suitable for growing crops and/or grazing livestock.
5. **Restrictions Applicable to the Property.** By this Conservation Easement, the Grantor agrees to restrictions that apply to the entire Property and additional restrictions that apply only to the Farmstead Area and Farm Area as set forth in this Easement. The Grantor may take certain actions relating to the Property as permitted by this Easement, and may take certain actions only after giving the Grantee prior notice and/or obtaining the Grantee's prior consent, as set forth herein. No Structures or Improvements shall be built, expanded or replaced anywhere on the Property except in compliance with this Easement. All Structures and Improvements allowed by this Conservation Easement may be expanded or replaced consistent with the restrictions set forth in this Conservation Easement and may be

reconstructed if damaged, razed or destroyed. If the Grantor removes or razes any Structure or Improvement, and does not build a new Structure or Improvement in the same location, the Grantor shall restore the site to a relatively natural condition with suitable landscaping and re-vegetation and grading that matches the natural contours of the land, unless the Grantee otherwise consents.

6. **Use of Property.** Except as provided specifically herein, the Property shall be used solely for residential, Agricultural Uses, Recreational Uses, and Forestry Uses. Commercial Uses of the Property shall be limited to commercial Agricultural Use, commercial Forestry Use, and Rural Enterprises that are consistent with the Conservation Purposes of this Conservation Easement. No Industrial Use of the Property whatsoever is permitted, and no Institutional Use of the Property is permitted except with the prior consent of the Grantee.

7. **Reserved Rights Retained by Grantor.**

Grantor reserves all customary rights and privileges of ownership, including the right of exclusive use, possession and enjoyment of the Property, the rights to sell, lease, mortgage, and devise the Property. In addition, Grantor reserves other rights compatible with the Conservation Purposes set forth in Section 2 ("Purpose") that are not specifically prohibited or limited by this Easement and which do not unreasonably restrict or regulate Farm Operations in contravention of the purposes of Article 25-AA of the AML.

7(a). **Right to Use Property for Agricultural Uses.**

Grantor has the right to engage in Agricultural Use of the Property and to use the Property as a Farm Operation provided that any processing, marketing or retailing of any Crops, Livestock and Livestock Products and that any similar activities involving any processed product associated with crops or livestock are not permitted on the Farm Area. As used in this Section 7(a), "processing" shall not include activities such as (i) boiling maple sap or (ii) grinding and mixing of any materials that result in feed for the livestock kept on the Property or on other properties owned or operated by the Grantor, provided that any such "processing" shall be conducted on a de minimus portion of the Farm Area. Said farming practices shall be carried out consistent with the Conservation Plan and in accordance with sound agricultural practices, which are practices necessary for on-farm production, preparation and marketing of agricultural commodities, provided such practices are legal, necessary, do not cause bodily harm or property damage off the farm, and achieve the intended results in a reasonable and supportable way.

7(b). **Right to Use Property for Rural Enterprises.**

Grantor has the right to operate otherwise lawful Rural Enterprises, subject to the limitations set forth in this Easement. In all cases, such Rural Enterprises must be located within the Farmstead Area, compatible with the Conservation Purposes of this Easement and subordinate to the Agricultural Use of the Property.

7(c). **Right to Use Property for Recreational Uses.**

Grantor retains the right to use the Property for Recreational Uses, subject to the limitations set forth in this Easement, including Section 10 ("Construction of Structures and Improvements"). In all cases, Recreational Uses must be compatible with the

Conservation Purposes of this Easement and subordinate to the Agricultural Use of the Property.

**7(d). Right to Use Property for Forestry Uses.**

Grantor retains the right to use the Property for Forestry Uses, subject to the limitations set forth in this Easement including Section 14 ("Forest Management"). In all cases, Forestry Uses must be compatible with the Conservation Purposes of this Easement and subordinate to the Agricultural Use of the Property.

**8. Conservation Plan.**

The Property shall be subject to a Conservation Plan prepared by a qualified conservation professional or by the local Soil and Water Conservation District in cooperation with the Grantor. The Conservation Plan shall be submitted to Grantee within one year of the execution of this Conservation Easement. Grantor and Grantee recognize that changes in economic and environmental conditions, in agricultural technologies, in accepted farm management practices and in the Farm Operations of Grantor may result in changes in the Agricultural Uses of the Property. It is the intention of this Easement to maintain Grantor's discretion to employ its choices of farm uses and management practices so long as those uses and practices are conducted in accordance with sound agricultural practices (as described in Section 7(a)) and in a manner consistent with the Conservation Plan. Further, all farm uses and farming practices identified in the Conservation Plan shall be consistent with the Conservation Purposes of this Easement and shall not be specifically prohibited by this Easement. The Conservation Plan shall identify and address potential adverse environmental impacts of agricultural activities, as well as opportunities to enhance the agricultural productivity and economic viability of the Property. The Conservation Plan shall be updated periodically and whenever the Farm Operation changes substantially. Upon request, Grantor shall provide a copy of the most current Conservation Plan to Grantee.

**9. Access.**

Nothing contained in this Easement shall give or grant to the public a right to enter upon or to use the Property or any portion thereof where no such right of the public existed immediately prior to the execution of this Easement.

**10. Construction of Structures and Improvements.**

The Property consists of two (2) Use Areas as further described in the Baseline Documentation Report (referenced in Section 21 herein) and identified on the Easement Map attached hereto as Exhibit B: 1) one (1) Farmstead Area to be selected for designation from among the two "permissible Farmstead" areas, shown on Exhibit B, pursuant to Section 10(a)(i) and Section 10(a)(ii); and 2) the Farm Area. Except as expressly provided herein, all Structures and Improvements shall be located wholly within the final designated Farmstead Area, to be depicted on a future revised Easement Map described below and outside of the Farm Area. Grantor may undertake construction, erection, installation, removal or placement of Structures and Improvements to the Property within the Farmstead Area and Farm Area only as provided in this Easement and set forth below.

**10(a). Selection of a Farmstead Area.**

Grantor may select one of the two permissible Farmstead areas, labeled FA#1 and FA#2

on Exhibit B attached hereto, as the Farmstead Area. Once selected, the final Farmstead Area must be formally designated pursuant to Section 10(a)(i) and Section 10(a)(ii) herein, before commencement of construction of Structures or Improvements allowed to be located only within the final designated Farmstead Area. FA#1, while depicted as a three and one-half (3-1/2) acre area, shall be reduced in size to two acres prior to the construction of any permitted Structures or Improvements pursuant to the requirements of Section 10(a)(i). Until such time as the final Farmstead Area has been designated, areas FA#1 and FA#2 shall be deemed to be part of the Farm Area and shall comply with the Farm Area restrictions described herein. Once the final Farmstead Area has been designated, the remaining area outside of the final designated "Farmstead Area" shall become a permanent part of the Farm Area.

**10(a)(i) Designation of Final Farmstead Area.** The final Farmstead Area shall be designated in the following manner: Prior to construction of any new Structure or Improvement, except those Structures or Improvements permitted in the Farm Area in this Section 10, the Grantor shall present the Grantee, for its consent, notification in writing depicting the Farmstead Area selected by the Grantor for formal designation as such.

If the Grantor selects FA#1, shown as three and one-half (3-1/2) acres in size on Exhibit B hereof, prior to construction of any new Structure or Improvement, Grantor shall submit to the Grantee, a plan showing the proposed boundaries of a reduced size FA#1 no larger than two acres and located wholly within FA#1 as shown on the attached Exhibit B, Conservation Easement Map. The Grantee shall review the proposed size and location of the revised FA#1 to ensure that it is no larger than two acres and located wholly within FA#1 as shown on Exhibit B hereof, and approve the revised FA#1 if it finds that it satisfies the requirements of this Section 10(a)(i).

**10(a)(ii) Recording a Notice of Farmstead Area Designation.** Upon selection of FA#1 or FA#2 pursuant to Section 10(a)(i), the Grantor and the Grantee shall execute and record with the Office of the Dutchess County Clerk a Notice of Farmstead Area Designation in a form similar to the form attached hereto as Exhibit C, incorporated herein by reference, which shall also include a revised Exhibit B which establishes the designated Farmstead Area. After a properly executed Notice of Farmstead Area Designation is recorded, Structures may be built within the designated Farmstead Area subject to the terms of this Conservation Easement. Any such revision to Exhibit B shall be binding on any mortgagee whose mortgage is recorded subsequent to the recording of this Conservation Easement.

**10(b). Impervious Surfaces.**

It is the intention of this Easement to limit the extent of construction or placement of Impervious Surfaces on the Property. Subject to the limitations set forth below, Impervious Surfaces may cover up to 1% of the Farm Area without permission of Grantee. With permission of Grantee, Impervious Surface coverage may be increased to a maximum of four percent (4%) of the Farm Area as provided in Section 10(d)(ii). There shall be no



limitation on Impervious Surfaces within the designated Farmstead Area.

**10(c). Fences.**

Existing fences may be repaired, removed and replaced, and new fences may be built anywhere on the Property for purposes of reasonable and customary management of livestock and wildlife, safety and general management and to prevent trespassing on the Property. Customary fences such as wire, board or post and rail, and other fencing that does not impair the views of the Property from public vantage points, may be erected repaired or replaced. Additional types of fencing shall require the prior consent of the Grantee.

**10(d). Agricultural Structures and Improvements.**

Agricultural Structures and Improvements may be placed or constructed on the Property in accordance with the provisions of this Section 10(d), subject to the Impervious Surface coverage limitations set forth in Section 10(b) ("Impervious Surfaces"), and may be repaired, removed, enlarged and replaced at their respective locations,

**10(d)(i). Farmstead Area:** Without permission of Grantee, Agricultural Structures and Improvements, including accessory roads and parking areas, are permitted within the final designated Farmstead Area.

**10(d)(ii). Farm Area:** As provided in the Impervious Surface coverage limitations set forth in Section 10(b) ("Impervious Surfaces"), Grantor may place or construct agricultural Structures and Improvements on up to one percent (1%) of the Farm Area without permission of Grantee, and with permission of Grantee, on an additional three-percent (3%) of the Farm Area, for a maximum of four percent (4%) Impervious Surface coverage within the Farm Area. However, no Structure or Improvements on the Farm Area shall be used in any manner that is associated with the processing, marketing or retailing of any Crops, Livestock and Livestock Products and no similar activities involving any processed product associated with crops or livestock shall be permitted on the Farm Area. As used in this Section 10(d), "processing" shall not include activities conducted on a de minimus portion of the Farm Area, such as boiling maple sap or grinding and mixing of materials to produce feed for the livestock kept on the Property or on other properties owned or operated by the Grantor. In the construction or placement of any Impervious Surfaces within the Farm Area, the Grantor shall use all practical means to minimize the extent of coverage over or associated impacts to prime soils and soils of statewide importance.

**10(e). Residential Dwellings.**

Residential Dwellings may be placed or constructed on the Property in accordance with the provisions of this Section 10(e). Each such Residential Dwelling may be repaired, removed, enlarged and replaced at its respective location. Residential uses shall be compatible with the Conservation Purposes of this Easement and subordinate to the Agricultural Uses and scenic preservation of the Property.

**10(e)(i). Farmstead Area:** Without permission of Grantee, Residential Dwellings,

together with Accessory Structures and Improvements, are permitted within the designated Farmstead Area, as provided below, subject to any applicable local, state or federal laws and regulations.

**Principal Residence.** No more than one (1) single family Principal Residence shall be permitted on the Property. As of the date of this Easement no such Principal Residence exists on the Property. The Principal Residence shall not exceed a Footprint Area of 2,500 square feet or 35 feet in Height.

**Accessory Residence.** No more than one (1) Accessory Residence shall be permitted on the Property. As of the date of this Easement, no such residence exists on the Property. The Accessory Residence shall not exceed a Footprint Area of 1,250 square feet or 25 feet in Height. The Accessory Residence shall not be sold separately from the Principal Residence.

**Accessory Apartment.** No more than one Accessory Apartment may be located on the Property. The Accessory Apartment may be located within any permitted Residential Dwelling described above, or Agricultural Structure permitted herein located within the Farmstead Area. If the Accessory Apartment is located within a Residential Dwelling such Dwelling, including the Accessory Apartment, shall comply with the Footprint Area limits described above. As of the date of this Easement, no such Accessory Apartment exists on the Property. No Accessory Apartment may be sold separately from the Principal Residence.

**Farm Labor Housing.** Farm Labor Housing is permitted within any Residential Dwelling described above. As of the date of this Easement, no such Farm Labor Housing exists on the Property. No Residential Dwelling that serves as Farm Labor Housing may be sold separately from the Principal Residence.

**10(e)(ii). Farm Area:** Accessory Residences, Accessory Apartments, Accessory Structures, Farm Labor Housing, Principal Residences and Residential Dwellings are prohibited in the Farm Area.

**10(f). Rural Enterprises.**

With the permission of Grantee, Rural Enterprises may be established and carried out within the designated Farmstead Area. In all cases, such uses and any necessary Structures or Improvements, shall be compatible with the Conservation Purposes of this Easement and subordinate to the Agricultural Use of the Property. Prohibited enterprises include, but are not limited to, those that market non-agricultural petroleum or chemical products. Rural Enterprises shall not include the operation of a junkyard, gas station or any similar enterprise. The land on which Rural Enterprises are located shall not be subdivided into separate parcels.

**10(g). Structures and Improvements associated with Recreational Uses.**

With the permission of Grantee, Structures and Improvements associated with Recreational Uses are permitted on the Property in accordance with the provisions of this Section 10(g).

and subject to the Impervious Surface coverage limitations set forth in Section 10(b) ("Impervious Surfaces"), so long as such Structures and Improvements are compatible with the Conservation Purposes of this Easement and subordinate to the Agricultural Use and scenic preservation of the Property. No Structures or Improvements associated with Recreational Uses shall impair in any way the Agricultural Use or scenic preservation of the Property. Structures and Improvements may be repaired, removed, enlarged and replaced at their respective locations subject to the Impervious Surface coverage limitations set forth in Section 10(b) ("Impervious Surfaces").

**10g)(i). Farmstead Area:** Without permission of Grantee, Structures and Improvements associated with Recreational Uses are permitted within the designated Farmstead Area.

**10g)(ii). Farm Area:** Subject to the Impervious Surface coverage limitations set forth in Section 10(b) ("Impervious Surfaces"), Grantor may place or construct Structures and Improvements associated with Recreational Uses in the Farm Area up to an aggregate of five hundred (500) square feet in Footprint Area with permission of Grantee. All Structures and Improvements associated with Recreational Uses shall be located in a manner that minimizes the impact to prime soils or soils of statewide importance as well as the scenic view from public vantage points, including I-84, the Taconic State Parkway and Jackson Road.

**10(h). Exterior Appearance.**

No construction, improvement, repair or replacement of a Structure or other alteration of the Property shall be constructed or performed in a manner inconsistent with the scenic preservation and Conservation Purposes of this Conservation Easement. To the extent that Structures newly constructed after the date of this Conservation Easement, and alterations and additions to existing Structures are visible in winter from offsite or from public roads, they shall comply with the following design standards:

**10(h)(i) Architecture.** The exterior of all Structures shall be architecturally sensitive and respectful of the immediate site and surrounding sites. The exterior of Structures shall be harmonious with traditional Structures found in the vicinity at the time of this Conservation Easement, utilizing natural materials wherever possible, unless otherwise approved by the Grantee, and all primary materials shall be chosen to minimize the visual prominence of Structures and to create architecture that blends in with the site. All roofing and exterior surfaces (except window glass) shall be non-reflective, but this sentence shall not preclude the use of metal as a roofing material or the inclusion in roof design of non-reflective solar panels.

**10(h)(ii) Color.** The color of all new Structures, and the color of existing Structures if they are to be changed, shall be chosen to minimize their visual impact from public roads and other public vantage points. Colors shall be painted or stained in natural, white, barn red, or earth tones (grays, browns, greens.) Paint shall be non-reflective.

**10(h)(iii) Landscape.** Changes to the landscape and existing site features in connection with new construction shall be minimal, and shall encourage the preservation of mature trees, rock outcroppings, watercourses, and other significant natural amenities. Landscape designs shall make every effort to screen and/or otherwise diminish the visual impact of all Structures from public roads or parkland, and shall be harmonious with the existing site in concept and detail.

**10(i). Signs.**

No signs shall be permitted on the Property except fronting on Jackson Road, and only for the purposes of informing visitors to the Property of the name and/or address of the Property and/or the names of persons living on the Property, to advertise an on-site activity permitted by this Easement, to advertise the Property for sale or rent, to mark roadways, to announce that the Property is subject to a Conservation Easement and/or identify the holder of the Conservation Easement, and/or to post the Property to control unauthorized entry or use, unless otherwise approved by the Grantee. Such signs shall be of professional quality and their size, placement, number and design shall not appreciably diminish the scenic and rural character of the Property.

**10(j). Lighting.**

Outdoor lighting shall not result in glare visible from public vantage points or which is inconsistent with the scenic and rural character.

**10(k). Landscaping and Screening.**

Changes to the landscape shall minimize disturbance of mature trees, rock outcroppings, watercourses, and other significant natural features. The Grantor shall site Structures and Improvements off steep slopes and shall preserve and maintain sufficient topography, vegetation and terrain to screen Structures and Improvements from public vantage points. The Grantor shall not plant trees, shrubs and other vegetation along or at the Taconic Parkway and I-84 road frontage in such an arrangement that would impair the scenic views of the Property from those roads. Any substantial alteration to the topography or landscape features of the Property shall require the prior consent of the Grantee.

**10(l). Utility Services and Septic Systems.**

Wires, lines, pipes, cables, tanks, or other facilities providing electrical, gas, water, sewer, sanitary sewer, septic, communications, or other like services solely to or from the Improvements permitted in this Easement may be installed, maintained, repaired, removed, relocated and replaced for such purposes. All such services and systems shall be compatible with the Conservation Purposes of this Easement, subordinate to the Agricultural Use and scenic preservation of the Property and located in a manner that minimizes the impact to prime soils or soils of statewide importance. No wireless telecommunications towers or associated antennas may be placed on the Property. There shall be no placement of high-voltage transmission lines, pipelines, landfills or other land uses detrimental to the scenic character or ecosystems of the Property. The preceding sentence shall not prevent the installation and maintenance of local utility distribution lines which provide service solely to the Structures

and Improvements allowed by this Easement.

**10(m). Structures and Improvements Associated with Renewable Energy Facilities.**

Pursuant to this Section 10(m), renewable energy shall have the meanings and be considered in relation to this Easement as described herein. Renewable energy is derived from a fuel source that readily restores over short periods of time and typically does not diminish. Such fuel sources include the sun, wind, moving water, organic plant and waste material (e.g., biomass) and the earth's heat (i.e., geothermal). Structures and Improvements necessary to undertake renewable energy generation are permitted within the final designated Farmstead Area on the Property as further described below provided, in Grantee's sole determination, that they are compatible with the Conservation Purposes of this Easement, subordinate to the Agricultural Use of the Property, compatible with the scenic preservation of the Property, and located in a manner that minimizes the impact to prime farmland soils or soils of statewide importance, and the impact to the scenic view from public vantage points, including I-84, the Taconic State Parkway and Jackson Road.

With permission from the Grantee pursuant to Section 18 ("Permission of Grantee"), facilities for the generation of energy from renewable resources may be built within the Farmstead Area solely to provide energy for Structures existing on the Property. Grantor and its assigns, agents, and lessees shall comply with any applicable New York State Agriculture and Markets guidelines regarding agricultural impact avoidance, mitigation and remediation. Grantor shall provide the Footprint Area, design, location, size, Height and output of any such facilities to the Grantee and such Structures shall conform with all federal, state and local laws. Excess energy generated above that required for use on the Property, may be sold to an electrical supplier in compliance with federal, state and local laws.

**11. Maintenance and Improvement of Water Sources.**

Grantor may use, maintain, establish, construct, and improve water sources, water courses and water bodies within the Property for the uses permitted by this Easement. Grantor may alter the natural flow of water over the Property in order to improve drainage of agricultural soils, reduce soil erosion and/or flooding, provide irrigation for the Property, construct or expand ponds, or improve the agricultural or forest management potential of the Property, provided such alteration is consistent with the Conservation Plan, is in accordance with sound agricultural practices (as described in Section 7(a)), is compatible with the Conservation Purposes of this Easement, and is carried out in accordance with applicable local, state and federal laws and regulations. No change to any existing ponds, streams or wetlands, and no construction or alteration of any Structure or Improvement (including septic disposal systems) for non-Agricultural Uses shall be permitted within 100 feet of any existing pond, stream, or wetland, except with permission of the Grantee pursuant to Section 18 ("Permission of Grantee").

**12. Water Rights.**

Grantor may use any appurtenant water rights sufficient to maintain the agricultural productivity of the Property in accordance with applicable local, state and federal laws and regulations. Grantor shall not transfer, encumber, lease, sell or otherwise sever such water rights from title to

the Property itself.

### 13. Subdivision.

The Property is currently comprised of five (5) tax map parcels owned by Grantor.

The intention of the Grantee and Grantor is to keep the land together as one farm parcel. Any division, partition, subdivision, or other legal or de facto creation of lots or parcels of any portion of the Property into separate ownership is hereafter referred to as "Subdivision" or to "Subdivide". Grantor shall not further Subdivide the Property. Under no circumstance shall the designated Farmstead Area be Subdivided from the Farm Area.

Lot line adjustments which do not create additional building lots may be permitted only with the prior written permission of the Grantee. Grantor's request for permission for a lot line adjustment will be governed by the provisions set forth in Section 18 ("Permission of Grantee") of this Easement and the provisions of this Section 13. Grantee shall not grant such permission unless Grantee determines that the lot line adjustment: (a) is for agricultural purposes; (b) is compatible with the Conservation Purposes of this Easement; (c) will not materially diminish or substantially impair the agricultural viability of the Property; and (d) will ensure that all parcels of land thereby created will remain Viable Agricultural Land either individually, or as part of an established Farm Operation. Any such lot line adjustment shall not include the right to construct, place or relocate any Structures or Improvements on the Property, except as otherwise permitted by this Easement. Any lot line adjustment must comply with all applicable local, state or federal regulations, and any conveyed parcels shall be subject to the terms of this Easement.

In the event that any lot line adjustment is approved by the Grantee, any portion of the Property so conveyed shall remain subject to this Easement and approval by the Grantee must allocate to the conveyed portion of the Property any portion of the following rights then remaining which are to be applied to the conveyed portion:

- (a) Construction of Impervious Surfaces as set forth in Section 10(b) ("Impervious Surfaces");
- (b) Construction or placement of Agricultural Structures and Improvements under Section 10(d), ("Agricultural Structures and Improvements");
- (c) Construction or placement of Residential Dwellings under Section 10(e), ("Residential Dwellings");
- (d) Construction or placement of recreational Improvements under Section 10(g), ("Recreational Structures and Improvements"); and
- (e) Construction of renewable energy Structures and Improvements under Section 10(m), ("Renewable Energy Facilities").

Such allocation of the rights in the noted sections shall not result in total allowances greater than those allowed under each such section or the Conservation Easement as a whole.

Mortgages, or other non-possessory interests in land do not constitute "Subdivision" as intended in this Section 13 herein, provided such interests encompass the whole Property or such portion of the Property for which the Grantee has approved a Subdivision as noted

above.

#### 14. Forest Management.

All clearing of trees and vegetation shall be conducted in conformity with sound land and forest management practices to minimize erosion and adverse impacts on natural resources and there shall be no removal, destruction or cutting of mature live trees on the Property with a trunk diameter at breast height of eight inches or more, except as follows:

**14(a). Permitted Removal of Trees.** Trees may be removed which endanger public safety, are diseased, damaged or fallen, need to be cleared to ensure the health of other trees through best forest management practices, need to be cleared to reclaim the land to its current agricultural state as shown in the Baseline Documentation Report (referenced in Section 21 herein) if it grows into scrub or forest land, or in connection with the construction of permitted Structures and Improvements subject to the restrictions set forth in this Section 14.

**14(b). Clearing with Prior Consent.** New open spaces for agriculture may be created with permission of the Grantee pursuant to Section 18 ("Permission of Grantee"). Grantee will assess any potential negative environmental effects if clearing is requested along stream banks before providing consent.

**14(c). Commercial Forestry.** Commercial Forestry Uses may be conducted if in conformity with accepted silvicultural practices and sound land and forest management practices to minimize erosion and adverse effects on natural resources with the permission of the Grantee pursuant to Section 18 ("Permission of Grantee"). All commercial forestry shall be conducted in accordance with a forestry management plan approved by the Grantee, except that for properties under the NYS 480-a program, or other applicable forestry tax programs noted below, the Grantee shall only require notice and a copy of the NY State required plan for its files. Such management plan shall conform to: (1) accepted New York State Department of Environmental Conservation sustainable forestry guidelines; (2) any applicable guidelines of the Natural Resource Conservation Service of the United States Department of Agriculture (or successor governmental departments or agencies), and (if applicable); (3) logging guidelines set forth in Section 480-a of the New York State Real Property Tax Law (or other applicable state forestry tax programs).

#### 15. Mining and On-Site Extractive Activity.

There shall be no surface or subsurface mining or quarrying on the Property. In compliance with Section 170(h)(5) of the Internal Revenue Code and Section 1.170A-14(g)(4) of the Treasury Regulations, as amended, the Grantor may utilize sand and gravel on the Property solely for use on the Property providing the use has limited, localized impact on the Property and provided the use is not destructive to the Conservation Purposes of this Easement pursuant to Section 2 ("Purpose"). This shall not prohibit the Grantor from re-grading portions of the Property to achieve more useable agricultural land as long as topsoil is stockpiled during re-grading and is replaced on the grounds surface upon completion.

#### 16. Road Construction.

Subject to the Impervious Surface coverage limitations set forth in Section 10(b) ("Impervious Surfaces"), Grantor may construct, maintain and repair roads for residential driveways, barnyards, farm markets or other Improvements necessary to provide access to, and parking for, permitted Structures or Improvements, or to conduct other activities permitted by this Easement. Roads constructed in the Farm Area shall be located in a manner that minimizes impacts to prime soils and soils of statewide importance.

**17. Dumping and Trash.**

The dumping, land filling, burial, application, injection, or accumulation of any kind of garbage, trash or debris on the Property is prohibited, other than agriculturally-related waste or biodegradable material as described below. Without permission of Grantee, Grantor may (i) store, compost, apply or inject agriculturally-related waste or biodegradable material; (ii) store old farm equipment to be used for parts; (iii) temporarily store trash or household waste in receptacles for periodic off-site disposal and (iv) compost or re-use biodegradable materials generated off the Property for use on the Property or Commercial Use or sale. All such activities shall be conducted in accordance with sound agricultural practices (as described in Section 7(a)) and in a manner consistent with the Conservation Plan and all applicable local, state or federal laws and regulations. Notwithstanding the foregoing, the storage and treatment of sewage associated with Structures permitted on the Property is permitted by this Easement.

**18. Permission of Grantee.**

When Grantor is required to obtain Grantee's permission for a proposed action pursuant to the Easement, such permission shall be requested in writing. Grantee shall grant permission if it determines that such action is 1) compatible with the Conservation Purposes of this Easement and 2) either integral to the Agricultural Use of the Property in the case of Agricultural Structures, or subordinate to the Agricultural Use and scenic preservation of the Property. Grantee shall respond with a decision in writing within forty-five (45) days of receipt of the Grantor's written request which shall include all relevant building plans identifying the use, Footprint Area and total square footage of any proposed Structures, and related survey information, if available. If mutually agreed upon by Grantee and Grantor, this timeline may be reasonably extended.

**18(a). Standards and Timetable for the Grantee's Decision.**

Where the Grantee's written consent is required, the Grantee shall grant or withhold its consent in writing within forty-five (45) days of receipt of the Grantor's request for consent accompanied by plans and other materials the Grantee deems sufficient for its review. The Grantee may withhold consent only upon a reasonable determination by the Grantee that the Grantor's proposal would be inconsistent with the specific provisions or the Conservation Purposes of this Easement. The Grantee may grant its consent subject to reasonable conditions which must be satisfied. If the Grantee fails to act within 35 days of receipt of plans and materials it deems sufficient for its review, consent shall be deemed granted unless the Grantor consents to a longer period of time for review and discussion with the Grantee. The actual clearing of land and the completed Structure, Improvement or alteration shall conform in all material respects to the proposal that receives the consent of the Grantee.



Where prior notice is required, the Grantor shall give the Grantee at least 35 days' prior written notice before commencement of site preparation, construction, expansion, excavation, replacement, relocation or removal of any Structure, Improvement or any significant landscape alteration. Prior to any activity described herein, the Grantor shall submit sufficient information to enable the Grantee to make an informed determination as to whether such Structures or Improvements are permitted by and consistent with the Conservation Purposes and restrictions of this Conservation Easement. Such information may include, but is not limited to, survey information, site plans, and/or physically marking the boundaries of the proposed Structure or Improvement.

**19. Ongoing Responsibilities of Grantor and Grantee.**

Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any obligations of Grantor as Owner of the Property, including, but not limited to, the following:

**19(a). Taxes.** Grantor shall be solely responsible for payment of all taxes and assessments levied against the Property.

**19(b). Upkeep and Maintenance.** Grantor shall be solely responsible for the upkeep and maintenance of the Property, to the extent required by law and this Easement. Grantee shall have no obligation for the upkeep or maintenance of the Property.

**19(c). Liability and Indemnification.** Grantor agrees to indemnify and hold Grantee harmless from any and all costs, claims or liability, including but not limited to reasonable attorneys fees arising from any personal injury, accidents, negligence or damage relating to the Property, or any claim thereof, unless due to the negligence of Grantee or its agents, in which case liability shall be apportioned accordingly.

**20. Extinguishment of Development Rights.**

Except as otherwise reserved to the Grantor in this Easement, all non-agricultural development rights appurtenant to the Property are hereby released, terminated and extinguished, and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded or described, or to any other property adjacent or otherwise, or used for the purpose of calculating permissible lot yield of the Property or any other property.

**21. Baseline Documentation.**

By its execution of this Easement, Grantee acknowledges that the present uses of, and related Structures and Improvements on the Property are permitted by this Easement. In order to evidence the present condition of the Property so as to facilitate future monitoring and enforcement of this Easement, a Baseline Documentation Report (the "Report"), including relevant maps and photographs, describing such condition at the date hereof, has been prepared and subscribed by both parties, and a copy thereof has been delivered to Grantor and a copy will be kept on file with Grantee. The Report may be used by Grantee to establish that a change in the use or character of the Property has occurred, but its existence shall not preclude the use by Grantee of other evidence to establish the condition of the Property as of the

date of this Easement.

**22. Right of Inspection.**

Grantee and/or their representatives, shall have the right to enter upon the Property with forty-eight (48) hours advance notice to Grantor for the purpose of inspecting for compliance with the terms of this Easement. Such inspection shall be conducted between the hours of 9 a.m. and 7 p.m. on a weekday that is not a legal holiday recognized by the State of New York or at a date and time that is mutually agreeable to the Grantee and Grantor. In the instance of a violation or suspected violation of the terms of this Easement which has caused or threatens to cause irreparable harm to any of the agricultural or other resources this Easement is designed to protect, no such advance notice is required. Representatives of the County shall have the same right of inspection.

**23. Enforcement.**

If Grantee determines that a violation of this Easement has occurred, Grantee shall so notify Grantor, giving Grantor thirty (30) days to cure the violation. Notwithstanding the foregoing, where Grantee in Grantee's sole discretion determines that an ongoing or threatened violation could irreversibly diminish or impair the Conservation Purposes of this Easement, Grantee may bring an action to enjoin the violation.

Grantee shall also be entitled to seek the following remedies in the event of a violation: 1) money damages, including damages for the loss of the resources protected in accordance with the Conservation Purposes of this Easement; and 2) restoration of the Property to its condition existing prior to such violation.

Said remedies shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. In any case where a court finds that a violation has occurred, Grantor shall reimburse Grantee for all its expenses incurred in stopping and correcting the violation, including, but not limited to, reasonable attorneys' fees. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from doing so at a later time. In any case where a court finds no violation has occurred, each party shall bear its own costs.

Nothing in this Easement relieves Grantor of any obligation with respect to the Property or restriction on the use of the Property imposed by law, and nothing in this Easement shall require Grantor to take any action to restore the condition of the Property from damage or change that could not be reasonably anticipated by Grantor or that is beyond Grantor's reasonable control and occurring without Grantor's fault or negligence, including but not limited to natural disasters such as earthquakes, hurricanes or floods or to political or social upheavals such as wars or riots.

**24. Third Party Enforcement Rights.**

The County of Dutchess (the "County"), a New York municipal corporation having an office and a mailing address at 22 Market Street, Poughkeepsie, New York, 12601, and its successor agency shall have the right to enforce a material violation of this Easement subject to the following provisions.

24(a). Prior to commencing an enforcement action, the County must first notify Grantee and Grantor, give Grantee thirty (30) days to take appropriate action, including commencing an enforcement action, and give Grantor thirty (30) days from the receipt of such notice to cure the violation.

24(b). If the County determines that Grantor is diligently proceeding to cure the violation or, if not, that Grantee is taking appropriate action and/or diligently prosecuting an enforcement action in good faith, it shall not have a right to take legal action for the same violation of this Easement unless pursuant to a written request by Grantee.

24(c). In any case where a court finds that a violation has occurred, Grantor shall reimburse the County for all its expenses incurred in stopping and correcting the violation, including, but not limited to, reasonable attorneys' fees. In any case where a court finds no violation has occurred, each party shall bear its own costs.

Nothing in this clause shall diminish the Grantee's rights under Section 21 ("Enforcement") or this Section 22 ("Third Party Enforcement Rights").

## 25. Transfer of Easement.

Grantee shall have the right to transfer this Easement to The Scenic Hudson Land Trust, Inc. ("SHLT"), a New York not-for-profit corporation which has offices at One Civic Center Plaza, Suite 200, Poughkeepsie, New York, 12601. If SHLT is unable or unwilling to accept this Easement, Grantee shall have the right to transfer this Easement to any private non-governmental organization or public agency that, at the time of transfer is a "public body" or a "not-for-profit conservation organization" as defined by Article 49 of the ECL or a "qualified organization" under Section 170(h) of the Code or a soil and water conservation district board pursuant to Section 9 (4-a) of the Soil and Water Conservation Districts Law, provided the transferee expressly agrees to assume the responsibility imposed on Grantee by this Easement. If Grantee ceases to exist or qualify under Article 49 of the ECL and Section 170(h) of the Code, a court of competent jurisdiction shall transfer this Easement to another qualified organization having similar purposes that agrees to assume the responsibilities imposed by this Easement. Grantor must be notified in writing in advance of any such transfer.

## 26. Transfer of Property.

26(a). **Required Language in Future Deeds, Mortgages and Leases.** Any subsequent conveyance, including, without limitation, transfer, lease or mortgage of the Property, shall be subject to this Easement, and any deed or other instrument evidencing or effecting such conveyance shall contain language substantially as follows: "This {conveyance, lease, mortgage, easement, etc.} is subject to a Conservation Easement which runs with the land and which was granted to Dutchess Land Conservancy, Inc. by instrument dated \_\_\_\_\_, and recorded in the office of the Clerk of Dutchess County at Document No. \_\_\_\_." Grantor shall notify Grantee in writing at least thirty (30) days before conveying the Property, or any part thereof or interest therein, to any third party. The failure to notify Grantee or to include said language in any deed or instrument shall not, however, affect the validity or applicability of this Easement to the Property or limit its enforceability in any way.

**26(b). Transfer Fee.** At such time as all or any portion of the title to the Property is conveyed and before title is passed, the buyer shall be required to pay a transfer fee to the Grantee in an amount as shall be determined from time to time by the Grantee's Board of Directors but which shall not exceed an amount equal to one hundred dollars (\$100.00) increased (to allow for inflation) at a compound rate of 3% per annum for the years elapsed since the date of this Easement. This fee is in recognition of the Grantee's continuing obligation to monitor and enforce this Easement, to perform its responsibilities under the Easement and to otherwise further the Grantee's mission, all of which are believed to benefit the Property and its Owners. The Grantor agrees to incorporate this requirement in the terms of any agreement of sale for all or any portion of the Property and to familiarize the buyer with such terms prior to the sale.

**26(c). Conservation Easement Binding on Future Owners and Others.** The provisions of this Easement shall run with the land and shall be binding on each Owner while such Owner is entitled to possession or use thereof. This Section shall not impose personal liability on any beneficial owner except to the extent such beneficial owner already has personal liability with respect to the Property under the instrument creating an equity interest and under applicable law.

**26(d). Discharge of Owner Upon Transfer.** In the event any Owner transfers fee ownership of all or any portion of the Property or ceases to have a possessory or beneficial interest in the Property, such Owner shall be discharged from all obligations and liabilities under this Easement with respect to such portion transferred, except for acts or omissions which occurred during such Owner's period of ownership.

**27. Amendment of Easement.**

This Easement may be amended only with the written consent of Grantee. Any such amendment shall have a neutral or positive effect on the Conservation Values protected by this Easement, shall be compatible with and, to the extent practicable, advance the Conservation Purposes of this Easement, shall comply with the ECL or any regulations promulgated thereunder, and shall not unreasonably restrict or regulate Farm Operations in contravention of the purposes of Article 25-AA of the AML or such successor law as enacted or amended. Any such amendment to this Easement shall be duly recorded.

**28. Extinguishment of Easement.**

At the mutual request of Grantor and Grantee, a court with jurisdiction may, if it determines that conditions surrounding the Property have changed so much that it becomes impossible to fulfill the Conservation Purposes of this Easement described in Section 2 ("Purpose"), extinguish or modify this Easement in accordance with applicable law. The mere cessation of farming on the Property shall not be construed to be grounds for extinguishment of this Easement.

Notwithstanding the foregoing, if condemnation by exercise of the power of eminent domain makes it impossible to continue use of all or such portion of the Property for the Conservation Purposes of this Easement as described in Section 2 ("Purpose") herein, the restrictions may be extinguished as to any such portion so condemned by judicial proceeding.

Upon any subsequent sale, exchange or involuntary conversion (pursuant to this Section) by the Grantor, Grantee shall be entitled to a portion of the proceeds from any subsequent sale or other disposition of the Property, or title insurance proceeds, in accordance with Section 29 ("Proceeds") herein.

In the event that Grantor retains the Property subsequent to any such extinguishment or partial extinguishment, Grantee shall be entitled to receive from Grantor an amount equal to the fair market value of the Property or a portion of the Property as to which the extinguishment applies times the percentage determined under Section 29, with the proceeds distributed as provided in Section 29.

#### 29. Proceeds.

The grant of this Easement gives rise to a property right, immediately vested in Grantee, which property right has a monetary value in the event of an extinguishment or partial extinguishment or proceeds from a sale or other disposition of the Property as contemplated in Section 28 ("Extinguishment of Easement"). That monetary value is determined as follows: multiply (a) times (b), where -

(a) = the Grantee's Proportionate Share, and

(b) = the value of that portion of the Property no longer encumbered by this Easement as the result of the extinguishment.

Grantee's Proportionate Share shall be determined by dividing the value of this Easement, calculated as of the date hereof, by the unencumbered value of the Property, also calculated as of the date hereof. For this Easement, the Grantee's Proportionate Share is sixty eight percent (68%), and shall remain constant, subject only to reasonable adjustment to the extent permissible under Section 170(h) of the Code for any Improvements which may hereafter be made on the Property.

Grantee contributed 16.667% of the purchase price of this Easement. Therefore, Grantee shall be entitled to 16.667% of whatever proceeds become available upon the extinguishment of the Easement and the subsequent sale, exchange or involuntary conversion of the Property. The Hudson Highlands Land Trust, Inc. ("HHLT"), a New York not-for-profit corporation having an office and a mailing address at 20 Nazareth Way, P.O. Box 226, Garrison, New York, 10524, has contributed 16.667% of the purchase price for this Easement. Therefore, HHLT shall be entitled to 16.667% of whatever proceeds become available upon the extinguishment of the Easement and the subsequent sale, exchange or involuntary conversion of the Property.

The Scenic Hudson Land Trust has contributed 16.667% of the purchase price for this Easement. Therefore, SHLT shall be entitled to 16.667% of whatever proceeds become available upon the extinguishment of the Easement and the subsequent sale, exchange or involuntary conversion of the Property. SHLT and HHLT acknowledge this entitlement by signing the attached Acknowledgment. The County has contributed 50% of the purchase price for this Easement. Therefore, the County shall be entitled to 50% of whatever proceeds become available upon the extinguishment of the Easement and the subsequent sale, exchange or involuntary conversion of the Property. HHLT, SHLT and the County hereby

acknowledge each other's share (which is based upon each entity's contribution toward the costs of acquiring this Easement) of the Proportionate Share referenced above.

**30. Interpretation.**

This Easement shall be interpreted under the laws of the State of New York, or federal law, as appropriate. This Easement shall be liberally construed to effect the Conservation Purposes of this Easement. If any provision in this Easement is found to be ambiguous, an interpretation consistent with the Conservation Purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

**31. Recitals and Exhibits Incorporated Herein.**

Any and all recitals in this Easement are agreed by the parties to be accurate, are incorporated into this Easement by this reference, and shall constitute integral terms and conditions of this Easement. Any and all exhibits and addenda attached to and referred to in this Easement are hereby incorporated into this Easement as if fully set out in their entirety herein.

**32. Successors.**

Every provision of this Easement that applies to Grantor or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and other successors in interest, and shall continue as a servitude running in perpetuity with the Property.

**33. Severability.**

Invalidity of any of the covenants, terms or conditions of this Easement, or any part thereof, by court order or judgment shall in no way affect the validity of any of the other provisions hereof which shall remain in full force and effect.

**34. Notices.**

Any notice required or desired to be given under this Easement shall be in writing and shall be sent (i) by personal delivery, (ii) via registered or certified mail, return receipt requested, or (iii) via Federal Express or other private courier of national reputation providing written evidence of delivery. Notice shall be deemed given upon receipt in the case of personal delivery, and upon delivery by the U.S. Postal Service or private courier. All notices shall be properly addressed as follows: 1) if to Grantee, at the address set forth above; 2) if to Grantor, at the address set forth above; or 3) if to any subsequent Owner, at the address of the Property. Any party can change the address to which notices are to be sent to him, her or it by duly giving notice pursuant to this Section 34.

**35. Title.**

The Grantor covenants and represents that the Grantor is the sole Owner and is seized of the Property in fee simple and has good right to grant and convey the aforesaid Easement; that the Property is free and clear of any and all mortgages not subordinated to this Easement, and that the Grantee shall have the use of and enjoyment of the benefits derived from and existing out of the aforesaid Easement.

**36. Subsequent Liens on Property.**

No provisions of this Easement should be construed as impairing the ability of Grantor to use.

this Property, or a portion thereof encompassing entire separately deeded parcels, as collateral for a subsequent borrowing. Any subsequent liens on the Property must be subordinate to this Easement.

**37. Subsequent Encumbrances.**

The grant of any easements or use restrictions is prohibited, except with the permission of Grantee or as authorized in Section 10(l) ("Utility Services and Septic Systems"). Any future encumbrances shall be consistent with the Conservation Purposes of this Easement and shall not unreasonably restrict or regulate Farm Operations in contravention of the purposes of Article 25-AA of the AML.

**38. Grantor's Environmental Warranty.**

Grantor warrants that it has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property, as such substances and wastes are defined by applicable law, and hereby promises to hold harmless, defend, and indemnify Grantee and New York State Department of Agriculture and Markets against and from, any and all loss, cost, claim (without regard to its merit), liability or expense (including reasonable attorneys' fees) arising from or with respect to any release of hazardous waste or violation of environmental laws.

If at any time after the effective date of this Easement there occurs a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil; or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps that may be required under federal, state, or local law necessary to assure its containment and remediation, including any cleanup.

Nothing in this Easement shall be construed as giving rise to any right or ability in Grantee to exercise physical or management control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator or arranger with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") or any corresponding state and local statute or ordinance.

**39. Duration of Easement.**

Except as expressly otherwise provided herein, this Easement shall be of perpetual duration, and no merger of title, estate or interest shall be deemed effected by any previous, contemporaneous, or subsequent deed, grant, or assignment of an interest or estate in the Property, or any portion thereof, to Grantee, it being the express intent of the parties that this Easement not be extinguished by, or merged into, any other interest or estate in the Property now or hereafter held by Grantee.

**40. Entire Agreement.**

This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings and agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument.

shall be valid or binding unless contained in an amendment that complies with Section 27 ("Amendment of Easement").

**41. Waiver.**

No waiver by Grantee of any default, or breach hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default or breach hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No waiver shall be binding unless executed in writing by Grantee.

**42. Binding Effect.**

The provisions of this Easement shall run with the Property in perpetuity and shall bind and be enforceable against the Grantor and all future Owners and any party entitled to possess or use the Property or any portion thereof while such party is the Owner or entitled to possession or use thereof. Notwithstanding the foregoing, upon any transfer of title, the transferor shall, with respect to the Property transferred, cease being a Grantor or Owner with respect to such Property for purposes of this Easement and shall have no further responsibility, rights or liability hereunder for acts done or conditions arising thereafter on or with respect to such Property, but the transferor shall remain liable for earlier acts and conditions done or occurring during the period of his or her ownership or conduct.

**43. Lien Law.**

This conveyance is made subject to the trust fund provisions of Section Thirteen of the New York Lien Law.

**44. Captions.**

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

**45. Right of First Refusal**

In order to afford Grantee the opportunity to ensure that the Property remains in Agricultural Use in perpetuity, Grantor hereby gives to Grantee a Right of First Refusal to purchase the Property or a portion of the Property, which Right shall be of perpetual duration. In the event that the Grantee acquires fee title to the Property, this Conservation Easement shall not be merged into the fee and shall not be extinguished by virtue of such purchase.

**45(a). Applicability.** This Right of First Refusal shall not apply to any gift or bequest without consideration, nor to any sale or conveyance of the Property to members of Grantor's families or to an entity, to include but not limited to, partnerships, corporations, or limited liability companies, which are controlled by Grantor or members of Grantor's families or to the equitable owners of a Grantor which is a corporation, partnership, LLC or other entity. Members of the families shall include Grantor's spouse, children (natural and adopted), parents and their descendants. This Right of First Refusal also shall not apply to sales made pursuant to any judicial sale of all or any portion of the Property (including but not limited to a sale made in connection with mortgage foreclosure), to the conveyance to a mortgage holder by deed in lieu of foreclosure, nor to a subsequent conveyance by any mortgagee who acquires title by virtue of foreclosure sale or deed in



lieu of foreclosure. Grantee may waive this Right of First Refusal in the case of any sale of the Property to a responsible person or persons who, in the reasonable judgment of Grantee, demonstrate(s) an intent and ability to conduct farming on the Property, which is the production of crops, livestock and livestock products as defined under Section 301 of the AML, or such successor law as is later promulgated. The Right of First Refusal shall apply to all other sales and conveyances of the Property (including any conveyance by, or of any interest in, a corporation, partnership, LLC or other entity to non-family members of the equitable owners of the Grantor).

**45(b). Procedure.** The conditions of this Right of First Refusal shall be such that whenever Grantor receives a bona fide offer, Grantor shall deliver to Grantee a true copy of the offer in writing, together with such other instruments as may be reasonably required to show the bona fides of the offer. Grantee may elect to purchase, or assign such election to SHLT to purchase, the Property or portion thereof subject to the offer at the offered price and subject to such other terms and conditions not less favorable to Grantor than those contained in the offer by giving to Grantor written notice of such election within thirty (30) days after delivery of the offer to Grantee. If Grantee does not elect to meet such offer within the thirty-day period, or grant a limited waiver of this Right of First Refusal, Grantor may accept the offer as written.

IN WITNESS WHEREOF, Grantor and Grantee, intending to be legally bound hereby, have hereunto set their hands on the date first above written.

GRANTOR

ND-4, LLC

By: \_\_\_\_\_  
Joseph Manne  
(Grantor's title)

GRANTEE

DUTCHESS LAND CONSERVANCY, INC.

By: \_\_\_\_\_  
Rebecca E.C. Thornton  
President

State of New York     )  
County of               ), ss:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2016 before me, the undersigned, personally appeared Joseph Manne, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Signature/office of individual taking acknowledgement

State of New York     )  
County of Dutchess), ss:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2016 before me, the undersigned, personally appeared Rebecca E.C. Thornton, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Signature/office of individual taking acknowledgement

ACKNOWLEDGMENT

For the Sole Purpose of Acknowledging the Contribution of Funds to the purchase of this Conservation Easement, and the Role in the Extinguishment and Proceeds Clauses

HUDSON HIGHLANDS LAND TRUST, INC.

By:

\_\_\_\_\_  
Michelle D. Smith  
Executive Director

STATE OF NEW YORK    )  
                                  )ss

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, before me, the undersigned, a notary public in and for said State, personally appeared Michelle D. Smith personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

ACKNOWLEDGMENT

For the Purpose of Acknowledging a Contribution of Funds to the Purchase of this Conservation Easement, the Role in Transfer of Easement, the Role in Right of First Refusal, and the Role in the Extinguishment and Proceeds Clauses

THE SCENIC HUDSON LAND TRUST, INC.

By: \_\_\_\_\_  
Steve Rosenberg  
Executive Director

By: \_\_\_\_\_  
Seth McKee  
Land Conservation Director

STATE OF NEW YORK    )  
                                  )ss

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, before me, the undersigned, a notary public in and for said State, personally appeared Steve Rosenberg personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK    )  
                                  )ss

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, before me, the undersigned, a notary public in and for said State, personally appeared Seth McKee personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

ACKNOWLEDGMENT

For the Purpose of Acknowledging the Contribution of Funds to the Purchase of this  
Conservation Easement, and Acceptance of the Role of Third Party Right of Enforcement

DUTCHESS COUNTY

By:

\_\_\_\_\_  
Marcus Molinaro  
County Executive

STATE OF NEW YORK    )  
                                  )ss

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, before me, the undersigned, a notary public in and for said State,  
personally appeared **Marcus Molinaro** personally known to me or proved to me on the basis of  
satisfactory evidence to be the individual whose name is subscribed to the within instrument and  
acknowledged to me that he executed the same in his capacity, and that by his signature on the  
instrument, the individual, or the person upon behalf of which the individual acted, executed the  
instrument.

\_\_\_\_\_  
Notary Public

All those parcels of land situated in the Town of East Fishkill, County of Dutchess and State of New York, including the following five parcels containing a total of 39.277 acres more or less, being more particularly bounded and described as follows:

#### Parcel 1

Beginning at a point in the northerly right of way line of Jackson Road; thence along the lands N/F Jackson, et al (Doc #02 2013 5659) the following bearings and distances:

- N81°46'00"W for 673.90'
- S39°28'00"W for 734.84'
- N56°25'20"W for 551.81'
- N54°46'42"W for 171.50'
- N29°25'00"W for 199.43' to a point;

thence along Interstate Highway Route 84 the following bearings and distances:

- N72°40'25"E for 390.78'
- N54°42'37"E for 578.68
- N67°07'57"E for 148.80' to a point;

thence along the lands N/F Egg Farm Dairy, LLC (Doc #02 2005 7483) the following bearings and distances:

- S22°52'03"E for 450.00'
- N67°07'57"E for 424.90'
- N74°06'17"E for 372.83'
- S50° 42'07"E 256.70' to a point on the northern right of way line of Jackson Road;

thence along the Jackson Road S41°54'40' for 410.59' to the point or place of beginning.

Containing 20.873 acres more or less.

#### Parcel 2

Beginning at a point along the southerly Right of Way line of Jackson Road said point being the northwest corner of Farmstead Area #2; thence N31°34'40"E for 42.25'; thence continuing along the Right of Way line of Jackson Road N15°40'00"E for 49.61'; thence N81°01'30"E for 63.79'. Thence along the lands N/F Ramp to Parkway the following bearings and distances:

- N38°38'00"E for 56.42'
- S51°18'30"E for 61.27'
- S44°56'20"E for 264.49'
- S49°04'50"E for 237.39' to a point;

thence along the lands N/F ND-4 LLC N65°47'10"W for 452.64'; thence along the lands N/F Farmstead Area #2 N65°47'10"W for 148.46' to the point of beginning.

Containing 1.239 acres more or less.

### Parcel 3

Beginning at a point, said point being on the southerly bounds of Jackson Road and also being the southwest corner of N/F ND-4 LLC (Doc #02 2010 4966) ; thence along lands N/F ND-4 LLC S65°47'10"E for 601.10'; thence along lands N/F Taconic State Parkway the following bearings and distances:

- S29°58'20"E for 197.95'

- S15°47'40"W for 272.73' to a point;

thence along the lands N/F ND-4 LLC N59°42'50"W for 858.74' to a point on the southerly right of way line of Jackson Road; thence along Jackson Road N39°03'40"E for 108.60' and N31°34'40"E 191.39' to the point and place of beginning.

Containing 6.018 acres more or less.

### Parcel 4

Beginning at a point along the southerly Right of Way line of Jackson Road, thence along the lands N/F Farmstead Area #2 S59°42'50"E for 146.53'; thence along the lands N/F ND-4 LLC S59°42'50"E for 712.21' to a point; thence along the Taconic State Parkway S15°47'40"W for 92.00'; thence along the lands N/F ND-4 LLC N82°45'00"W for 991.12'; continuing along the lands N/F ND-4 LLC, thence N48°05'20"W for 56.71'; thence along the southerly Right of Way line of Jackson Road the following bearings and distances:

- N41°54'40"E for 278.83'
- N39°03'40"E for 194.65' to the point of beginning.

Containing 6.013 acres more or less.

### Parcel 5

Beginning at a point along the southerly Right of Way line of Jackson Road, thence continuing along the southerly Right of Way line of Jackson Road N41°45'40"E for 100.00' to a point; thence along the lands N/F ND-4 LLC the following bearings and distances:

- S48°05'20"E for 56.71'

- S82°45'00"E for 991.12' to a point;

thence along the Taconic State Parkway for the following bearing and distances:

- S15°47'40"W for 17.22

- S83°54'30"E for 87.01

- S20°14'00"W for 822.05' to a point;

thence along the lands N/F Jackson, et al. for the following bearings and distances:

- N69°02'00"W for 347.96'

- N40°02'40"E for 793.88'

- N79°22'00"W for 159.51'

- N81°58'50"W for 523.72'

- N82°45'00"W for 403.43' to the point of beginning.

Containing 5.134 acres more or less.

**METES AND BOUNDS DESCRIPTION  
OF THE FARMSTEAD AREAS**

**Farmstead Area #1**

Beginning at a point along the northerly Right of Way line of Jackson Road said point being the southeast corner of Egg Farm Dairy; thence S41°54'40"W for 410.59'; thence along the lands N/F Jackson, et al N81°46'00"W for 234.30'; thence along the lands N/F ND-4 LLC N08°14'00"E for 365.70'; thence along the lands N/F Egg Farm Dairy, LLC N74°06'17"E for 265.28'; thence along the lands N/F Egg Farm Dairy, LLC S50°42'07"E for 256.70' to the point of beginning.

Containing 3.500 acres more or less.

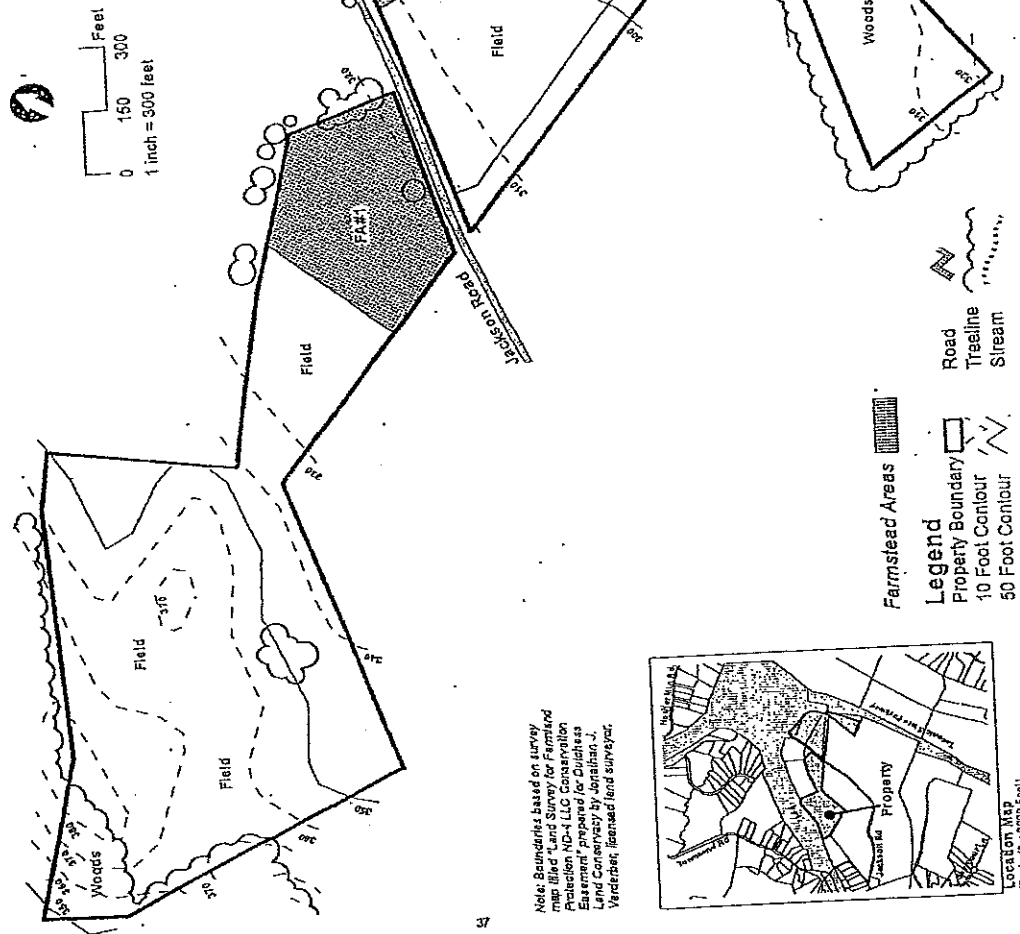
**Farmstead Area #2**

Beginning at a point along the southerly Right of Way line of Jackson Road said point being the northwesterly corner of ND-4 LLC, thence N39°03'40"E for 108.60'; thence continuing along the southerly Right of Way line of Jackson Road N31°34'40"E for 191.39'; thence along the lands N/F ND-4 LLC S65°47'10"E for 148.46'; thence along the lands N/F ND-4 LLC S34°17'08"W for 315.14'; thence along the lands N/F ND-4 LLC N59°42'50"W for 146.53' to the point of beginning.

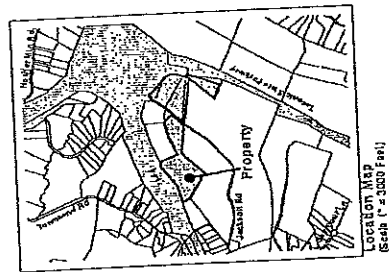
Containing 1.000 acres more or less.



Exhibit B:  
Conservation Easement Map  
ND-4 LLC  
39,277 Acre Property  
Jackson Road  
Town of East Fishkill, Dutchess County NY  
39,277 Acres +/- (Per Survey)  
September 23, 2016



Note: Boundaries based on survey  
of the "Bled" Land Survey for Farmstead  
Protection ND-4 LLC Conservation  
Easement, prepared for Dutchess  
Land Conservancy by Jonathan J.  
Verderber, licensed land surveyor.



**EXHIBIT C**  
**Form for Notice of Farmstead Area Designation**

**NOTICE OF FARMSTEAD AREA DESIGNATION**

THIS NOTICE OF FARMSTEAD AREA DESIGNATION ("Notice") is entered into effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_ (the "Landowners"), and DUTCHESS LAND CONSERVANCY, INC., a New York not-for-profit corporation with an office at 4289 Route 82, Millbrook, New York 12545 (the "Conservancy").

1. **Recitals.** Grantor and Grantee are parties to that certain Conservation Easement recorded \_\_\_\_\_, 20\_\_ at Document No. \_\_\_\_\_ in the real property records of Dutchess County, New York ("Conservation Easement"). Pursuant to Section 10(a) of the Conservation Easement, Grantor may select for designation one (1) Farmstead Area, selecting one from those shown as "FA#1" and "FA#2", on Exhibit B of the Conservation Easement. The total number of permanent Farmstead Areas on the Property shall not exceed one (1).

2. **Designation.** The location of the proposed Farmstead Area has been reviewed and approved by Grantee in accordance with Section 10(a)(i) of the Conservation Easement. Effective as of the date set forth above, Grantor and Grantee hereby establish one (1) Farmstead Area in the location depicted on the Revised Exhibit B incorporated herein, which replaces and supersedes the existing Exhibit B to the Conservation Easement.

3. **General.** Capitalized terms used in this Notice and not otherwise defined in this Notice shall have the meanings assigned to them in the Conservation Easement. The terms of the Conservation Easement shall not be amended by this Notice and shall continue in full force and effect.

(SIGNATURE PAGES TO FOLLOW)

GRANTOR:

By:

Name: \_\_\_\_\_

Title:

DUTCHESS LAND CONSERVANCY, INC.

By

Name:

Title:

STATE OF NEW YORK )  
 ) ss.:  
DUTCHESS COUNTY )

On the \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he or she executed the same in his or her capacity, and that by his or her signature on the instrument, the individual or person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK )  
 ) ss.:  
DUTCHESS COUNTY )

On the \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he or she executed the same in his or her capacity, and that by his or her signature on the instrument, the individual or person upon behalf of which the individual acted, executed the instrument.

Notary Public

**REVISED EXHIBIT B TO CONSERVATION EASEMENT**  
**Conservation Easement Map Showing the ND-4, LLC Property, Farmstead Area and Farm Area**

EXHIBIT "C" TO THE GRANT AGREEMENT  
SURVEY MAP

Not attached at this time.

Environment

Amended on Floor 7/14/08

RESOLUTION NO. 208206

BOND RESOLUTION DATED JULY 14, 2008.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$1,600,000 SERIAL BONDS OF THE COUNTY OF DUTCHESS, NEW YORK, TO PAY THE COST OF THE ACQUISITION OF PARCELS OF LAND, OR RIGHTS OR INTERESTS IN SUCH LAND, FOR ACTIVE AND/OR PASSIVE PARK PURPOSES AND THE PRESERVATION OF OPEN SPACE AND FARMLAND IN AND FOR SAID COUNTY.

WHEREAS, continuing development within the County of Dutchess, New York (the "County") has demonstrated a compelling need to continue to acquire, preserve, protect and maintain passive and active park land and existing open space and farmland to enhance the general quality of life and the environment of the County, including protection of drinking water sources, the quality of rivers and streams, wild life habitat and natural areas, and thereby benefit the residents and taxpayers of the County; and

WHEREAS, General Municipal Law Section 247 recognizes the value of open space areas and the need to preserve such land in such state and, specifically empowers municipalities with the authority to acquire real property or interests therein to preserve land as open space; and

WHEREAS, if existing open space areas are to be preserved, protected and maintained, the County must develop the additional capacity to purchase land, easements or other real property interests quickly and efficiently as the need arises and opportunities are identified; and

WHEREAS, this County Legislature recognizes the value of passive and active park land, open spaces and farmlands, and wishes to provide for the acquisition of real property and interests in real property therefor, and hereby finds and determines it to be in the public interest and a proper

public purpose of the County to do so in accordance with the provisions of Section 247 of the General Municipal Law; and

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act ("SEQRA"), have been performed, and site-specific compliance with SEQRA has been or will be performed as such need arises and all documentation relating to SEQRA may be examined at the office of the Clerk of the County Legislature during normal business hours; and

WHEREAS, it is now desired to provide for the financing of the acquisition of such real property and interest therein for said purpose; NOW, THEREFORE,

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the County Legislature of the County of Dutchess, New York, as follows:

Section 1. The acquisition of various [specific] parcels of land, or rights or interests in such land, for passive and active park purposes and the preservation of open space and farmland [known as Bos Haven, Sunset Ridge, Mead II, Simmons/Wil Hi, Locust Grove, Hiddenbrooke, and MacIntosh Farm,] throughout, and in and for the County of Dutchess, New York, to implement the State authorized programs and policies provided in Section 247 of the General Municipal Law, as such acquisitions may be authorized from time to time by the County Legislature of the County of Dutchess, New York, after due notice and a public hearing as provided thereunder, including incidental expenses in connection therewith, is hereby authorized in and for said County of Dutchess at a maximum estimated cost of \$1,600,000.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid [specific] class of objects or purpose is \$1,600,000, and that the plan for the financing thereof shall

be by the issuance of \$1,600,000 serial bonds of said County hereby authorized to be issued pursuant to the provisions of the Local Finance Law.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid [specific] class of objects or purpose is thirty years, pursuant to subdivision 21(a) of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Commissioner of Finance, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Commissioner of Finance, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said County of Dutchess, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. To the extent not paid from other sources, there shall annually be levied on all the taxable real property of said County, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the County of Dutchess, New York, by the manual or facsimile signature of the Commissioner of Finance and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the County Clerk.



Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Commissioner of Finance, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as she shall deem best for the interests of the County; provided, however, that in the exercise of these delegated powers, she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Commissioner of Finance shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the County by the facsimile signature of the Commissioner of Finance, providing for the manual countersignature of a fiscal agent or of a designated official of the County), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Commissioner of Finance. It is hereby determined that it is to the financial advantage of the County not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in

such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the Commissioner of Finance shall determine.

Section 9. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said County is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 11. This resolution, which takes effect immediately, shall be published in full in *The Poughkeepsie Journal* and *The Weekly Beat*, the official newspapers of said County, together with a notice of the Clerk of the County Legislature in substantially the form provided in Section 81.00 of the Local Finance Law.

\* \* \* \* \*

RESOLUTION NO. 2014323

BOND RESOLUTION DATED DECEMBER 15, 2014.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$1,000,000 SERIAL BONDS OF THE COUNTY OF DUTCHESS, NEW YORK, FOR THE DUTCHESS COUNTY PARTNERSHIP FOR MANAGEABLE GROWTH PROGRAM.

WHEREAS, continuing development within the County of Dutchess, New York (the "County") has demonstrated a compelling need to continue to acquire, preserve, protect and maintain passive and active park land and existing open space and farmland to enhance the general quality of life and the environment of the County, including protection of drinking water sources, the quality of rivers and streams, wild life habitat and natural areas, and thereby benefit the residents and taxpayers of the County; and

WHEREAS, General Municipal Law Section 247 recognizes the value of open space areas and the need to preserve such land in such state and, specifically empowers municipalities with the authority to acquire real property or interests therein to preserve land as open space; and

WHEREAS, if existing open space areas are to be preserved, protected and maintained, the County must develop the capacity to purchase land, easements or other real property interests quickly and efficiently as the need arises and opportunities are identified; and

WHEREAS, this County Legislature recognizes the value of passive and active park land, open spaces and farmlands, and wishes to provide for the acquisition of real property and interests in real property therefor, and hereby finds and determines it to be in the public interest and a proper

public purpose of the County to do so in accordance with the provisions of Section 247 of the General Municipal Law; and

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act ("SEQRA"), have been performed, and site-specific compliance with SEQRA has been or will be performed as such need arises and all documentation relating to SEQRA may be examined at the office of the Clerk of the County Legislature during normal business hours; and

WHEREAS, it is now desired to provide for the financing of the acquisition of such real property and interest therein for said purpose; NOW, THEREFORE,

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the County Legislature of the County of Dutchess, New York, as follows:

Section 1. The acquisition of parcels of land, or rights or interests in such land, for passive and active park purposes and the preservation of open space and farmland, throughout, and in and for the County of Dutchess, New York, to implement the State authorized programs and policies provided in Section 247 of the General Municipal Law, as such acquisitions may be authorized from time to time by the County Legislature of the County of Dutchess, New York, after due notice and a public hearing as provided thereunder, including incidental expenses in connection therewith, is hereby authorized in and for said County of Dutchess at a maximum estimated cost of \$1,000,000.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid class of objects or purposes is \$1,000,000, and that the plan for the financing thereof shall be by the issuance of \$1,000,000 serial bonds of said County hereby authorized to be issued pursuant to the provisions of the Local Finance Law.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is thirty years, pursuant to subdivision 21(a) of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Commissioner of Finance, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Commissioner of Finance, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said County of Dutchess, New York, are hereby irrevocable pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. To the extent not paid from other sources, there shall annually be levied on all the taxable real property of said County, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the County of Dutchess, New York, by the manual or facsimile signature of the Commissioner of Finance and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the County Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Commissioner of Finance, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as she shall deem best for the interests of the County; provided, however, that in the exercise of these delegated powers, she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Commissioner of Finance shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the County by the facsimile signature of the Commissioner of Finance, providing for the manual countersignature of a fiscal agent or of a designated official of the County), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Commissioner of Finance. It is hereby determined that it is to the financial advantage of the County not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in

such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the Commissioner of Finance shall determine.

Section 9. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said County is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 11. This resolution, which takes effect immediately, shall be published in full in *The Poughkeepsie Journal* and *The Southern Dutchess News*, the official newspapers of said County, together with a notice of the Clerk of the County Legislature in substantially the form provided in Section 81.00 of the Local Finance Law.

\* \* \* \* \*

CERTIFICATION FORM

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF DUTCHESS    )

I, the undersigned Clerk of the County Legislature of the County of Dutchess, New York (the "Issuer"), DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the County Legislature of said County, including the resolution contained therein, held on December 15, 2014, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that said County Legislature consists of 25 members; that the vote on the foregoing resolution was 23 ayes and 0 noes, with 2 members being absent or abstaining from voting.

I FURTHER CERTIFY that the foregoing resolution as adopted by said County Legislature was duly approved by the County Executive of said County on December 18, 2014, in accordance with the provisions of Section 3.02 of the Dutchess County Charter.

I FURTHER certify that all members of said Legislature had due notice of said meeting, and that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:



Newspaper and/or other news media

Date given

Southern Dutchess News  
Poughkeepsie Journal

December 12, 2014  
December 12, 2014

and that I further duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

Designated Location(s)  
of posted notice

Date of Posting

County Office Building, 6<sup>th</sup> Floor, County Office Building  
Poughkeepsie, NY 12601

December 12, 2014

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the County Legislature this 16<sup>th</sup> day of December 2014.

Carol Morris

Clerk, County Legislature

(CORPORATE SEAL)

APPROVED

M. J. Molinaro  
MARCOUS J. MOLINARO  
COUNTY EXECUTIVE

Date 12/18/2014

### LEGAL NOTICE

The following entitled bond resolution, a summary of which is published herewith, has been adopted on December 15, 2014, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the County of Dutchess, New York, is not authorized to expend money, or if the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the Constitution.

A complete copy of the resolution summarized herewith is each available for public inspection during regular business hours at the Office of the Clerk of the Legislature for a period of twenty days from the date of publication of this Notice.

Dated: Poughkeepsie, New York,

December 16, 2014.

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Clerk, County Legislature

RESOLUTION NO. 2014332

BOND RESOLUTION DATED DECEMBER 15, 2014.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$1,000,000 SERIAL BONDS OF THE COUNTY OF DUTCHESS, NEW YORK, TO PAY THE COST OF THE ACQUISITION OF PARCELS OF LAND, OR RIGHTS OR INTERESTS IN SUCH LAND, FOR ACTIVE AND/OR PASSIVE PARK PURPOSES AND THE PRESERVATION OF OPEN SPACE AND FARMLAND IN AND FOR SAID COUNTY.

|                                |  |
|--------------------------------|--|
| Class of objects or purposes:  | Acquisition of parcels of land for open spaces program   |
| Period of probable usefulness: | 30 years   |
| Maximum estimated cost:        | \$1,000,000  |
| Amount of bonds to be issued:  | \$1,000,000 bonds  |
| SEQRA status:                  | SEQRA compliance documentation on file in the office of the Clerk of the County Legislature where it may be inspected during regular office hours. |

## FISCAL IMPACT STATEMENT

☐ NO FISCAL IMPACT PROJECTED

### APPROPRIATION RESOLUTIONS (To be completed by requesting department)

Total Current Year Cost \$ 1,000,000

Total Current Year Revenue \$ 0  
and Source

Source of County Funds (check one): ☐ Existing Appropriations, ☐ Contingency,  
☐ Transfer of Existing Appropriations, ☒ Additional Appropriations, ☐ Other (explain).

Identify Line Items(s):

H0400.8020.3007 Partnership for Managable Growth

Related Expenses: Amount \$ 0

Nature/Reason:

Anticipated Savings to County: \$ 0

Net County Cost (this year): \$1,000,000  
Over Five Years: \$0

### Additional Comments/Explanation:

There is a balance of \$714,325 in current funding, with one remaining project (Hiddenbrooke). The expectations is that will leave a balance of \$164,325.

Prepared by: Eoin Wrafter

MARCUS J. MOLINARO  
COUNTY EXECUTIVE



Eoin WRAFTER, AICP  
ACTING COMMISSIONER

**COUNTY OF DUTCHESS**  
DEPARTMENT OF PLANNING AND DEVELOPMENT

To: Marcus Molinaro, Dutchess County Executive  
From: Eoin Wrafter, Acting Commissioner, Planning & Development (2)  
Re: Resolution Request - Partnership for Manageable Growth  
Date: October 17, 2014

Per your request, attached please find a resolution request authorizing issuance of \$1,000,000 Serial Bonds of the County of Dutchess, New York, to pay for the continued implementation of the Partnership for Manageable Growth Program established by the DCL Resolution No. 201276.

Also attached are the Fiscal Impact Statement and a Short Environmental Assessment Form.

If you have any questions or require further documentation, please let me or Noela Hooper know. Thank you for your consideration of this request.

Attachs.

C: County Attorney's Office  
Noela Hooper, Senior Planner

617.20  
Appendix B  
Short Environmental Assessment Form

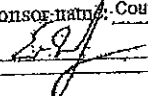
Instructions for Completing

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

|   |  |  |                                 |
|---|--|--|---------------------------------|
| <b>Part 1 - Project and Sponsor Information</b>   |  |  |                                 |
| Name of Action or Project:<br>Issuance of \$1,000,000 Serial Bond for Implementation of Partnership for Manageable Growth Programs  |  |  |                                 |
| Project Location (describe, and attach a location map):<br>Dutchess County, Various Locations TBD   |  |  |                                 |
| Brief Description of Proposed Action:<br>A Resolution authorizing the issuance of \$1,000,000 Serial Bonds of the County of Dutchess, New York, to pay for the continued implementation of the Partnership for Manageable Growth Program established by Dutchess County Legislature Resolution No. 201276.  |  |  |                                 |
| Name of Applicant or Sponsor:<br>County of Dutchess   |  | Telephone: 845-486-2000<br>E-Mail: coexec@dutchessny.gov |                                 |
| Address:<br>22 Market Street  |  |  |                                 |
| City/TPO:<br>Poughkeepsie   |  | State:<br>New York                                       | Zip Code:<br>12601              |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?<br>If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.  |  | NO<br><input checked="" type="checkbox"/>                | YES<br><input type="checkbox"/> |
| 2. Does the proposed action require a permit, approval or funding from any other governmental Agency?<br>If Yes, list agency(s) name and permit or approval:  |  | NO<br><input checked="" type="checkbox"/>                | YES<br><input type="checkbox"/> |
| 3. a. Total acreage of the site of the proposed action?<br>b. Total acreage to be physically disturbed?<br>c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?   |  | n/a acres<br>n/a acres<br>n/a acres                      |                                 |
| 4. Check all land uses that occur on, adjoining and near the proposed action.<br><input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)<br><input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other (specify): n/a<br><input type="checkbox"/> Farmland |  |  |                                 |

|  | NO                                  | YES                                 | N/A                                 |
|--|-------------------------------------|-------------------------------------|-------------------------------------|
| 5. Is the proposed action,<br>a. A permitted use under the zoning regulations?   | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b. Consistent with the adopted comprehensive plan?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?<br>If Yes, identify: _____  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 8. a. Will the proposed action result in a substantial increase in traffic above present levels?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| b. Are public transportation service(s) available at or near the site of the proposed action?  | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/>            |
| c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?   | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 9. Does the proposed action meet or exceed the state energy code requirements?<br>If the proposed action will exceed requirements, describe design features and technologies:<br>n/a   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 10. Will the proposed action connect to an existing public/private water supply?<br>If No, describe method for providing potable water: _____<br>n/a   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 11. Will the proposed action connect to existing wastewater utilities?<br>If No, describe method for providing wastewater treatment: _____<br>n/a  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?<br>b. Is the proposed action located in an archaeological sensitive area?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?<br>b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?<br>If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:<br><input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional<br><input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban                                       |                                     |                                     |                                     |
| 15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 16. Is the project site located in the 100 year flood plain?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 17. Will the proposed action create storm water discharge, either from point or non-point sources?<br>If Yes,<br>a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES<br>b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? <input type="checkbox"/> NO <input type="checkbox"/> YES<br>If Yes, briefly describe: _____ | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |

|   |                                     |                          |
|---|-------------------------------------|--------------------------|
| 18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?<br>If Yes, explain purpose and size: _____ | NO                                  | YES                      |
|   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?<br>If Yes, describe: _____   | NO                                  | YES                      |
|   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?<br>If Yes, describe: _____   | NO                                  | YES                      |
|   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE   |                                     |                          |
| Applicant/sponsor name: County of Dutchess  |                                     | Date: 14/06/2014         |
| Signature:   |                                     |                          |

**Part 2 - Impact Assessment.** The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

|  | No, or small impact may occur  | Moderate to large impact may occur                   |
|--|--|--|
| 1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?  | <input checked="" type="checkbox"/>  | <input type="checkbox"/>                             |
| 2. Will the proposed action result in a change in the use or intensity of use of land?   | <input checked="" type="checkbox"/>  | <input type="checkbox"/>                             |
| 3. Will the proposed action impair the character or quality of the existing community?   | <input checked="" type="checkbox"/>  | <input type="checkbox"/>                             |
| 4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?                      | <input checked="" type="checkbox"/>  | <input type="checkbox"/>                             |
| 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?            | <input checked="" type="checkbox"/>  | <input type="checkbox"/>                             |
| 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? | <input checked="" type="checkbox"/>  | <input type="checkbox"/>                             |
| 7. Will the proposed action impact existing:<br>a. public / private water supplies?<br>b. public / private wastewater treatment utilities?                                 | <input checked="" type="checkbox"/><br><input checked="" type="checkbox"/> | <input type="checkbox"/><br><input type="checkbox"/> |
| 8. Will the proposed action impact the character or quality of important historic, archaeological, architectural or aesthetic resources?                                   | <input checked="" type="checkbox"/>  | <input type="checkbox"/>                             |
| 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?                     | <input checked="" type="checkbox"/>  | <input type="checkbox"/>                             |

|   | No, or<br>small<br>impact<br>may<br>occur | Moderate<br>to large<br>impact<br>may<br>occur |
|---|---|--|
| 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? | <input checked="" type="checkbox"/>       | <input type="checkbox"/>                       |
| 11. Will the proposed action create a hazard to environmental resources or human health?                        | <input checked="" type="checkbox"/>       | <input type="checkbox"/>                       |

**Part 3 - Determination of significance.** The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

|   |  |
|---|--|
| <input type="checkbox"/>                                      | Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required. |
| <input checked="" type="checkbox"/>                           | Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.   |
| County of Dutchess  |  |
| Name of Lead Agency   |  |
| Date  |  |
| 10/16/2014  |  |
| Agiling Commissioner, Planning and Economic Development       |  |
| Title of Responsible Officer                                  |  |
| Edin Wrafter  |  |
| Print or Type Name of Responsible Officer in Lead Agency      |  |
| Signature of Responsible Officer in Lead Agency               |  |
| Signature of Preparer (if different from Responsible Officer) |  |
| Noela Moore   |  |

PRINT



Land Acquisition and/or Preservation of Open Space  
990,000 30 years at 3.40%

| Year                | PRIN O/S | PRIN PAYMENT | INTEREST | TOTAL     |
|---------------------|----------|--------------|----------|-----------|
| 1                   | 990,000  | 33,000       | 33,660   | 66,660    |
| 2                   | 957,000  | 33,000       | 32,538   | 65,538    |
| 3                   | 924,000  | 33,000       | 31,416   | 64,416    |
| 4                   | 891,000  | 33,000       | 30,294   | 63,294    |
| 5                   | 858,000  | 33,000       | 29,172   | 62,172    |
| 6                   | 825,000  | 33,000       | 28,050   | 61,050    |
| 7                   | 792,000  | 33,000       | 26,928   | 59,928    |
| 8                   | 759,000  | 33,000       | 25,806   | 58,806    |
| 9                   | 726,000  | 33,000       | 24,684   | 57,684    |
| 10                  | 693,000  | 33,000       | 23,562   | 56,562    |
| 11                  | 660,000  | 33,000       | 22,440   | 55,440    |
| 12                  | 627,000  | 33,000       | 21,318   | 54,318    |
| 13                  | 594,000  | 33,000       | 20,196   | 53,196    |
| 14                  | 561,000  | 33,000       | 19,074   | 52,074    |
| 15                  | 528,000  | 33,000       | 17,952   | 50,952    |
| 16                  | 495,000  | 33,000       | 16,830   | 49,830    |
| 17                  | 462,000  | 33,000       | 15,708   | 48,708    |
| 18                  | 429,000  | 33,000       | 14,586   | 47,586    |
| 19                  | 396,000  | 33,000       | 13,464   | 46,464    |
| 20                  | 363,000  | 33,000       | 12,342   | 45,342    |
| 21                  | 330,000  | 33,000       | 11,220   | 44,220    |
| 22                  | 297,000  | 33,000       | 10,098   | 43,098    |
| 23                  | 264,000  | 33,000       | 8,976    | 41,976    |
| 24                  | 231,000  | 33,000       | 7,854    | 40,854    |
| 25                  | 198,000  | 33,000       | 6,732    | 39,732    |
| 26                  | 165,000  | 33,000       | 5,610    | 38,610    |
| 27                  | 132,000  | 33,000       | 4,488    | 37,488    |
| 28                  | 99,000   | 33,000       | 3,366    | 36,366    |
| 29                  | 66,000   | 33,000       | 2,244    | 35,244    |
| 30                  | 33,000   | 33,000       | 1,122    | 34,122    |
| TOTAL COSTS         |          | 990,000      | 521,730  | 1,511,730 |
| AVERAGE COST PER YR |          | 33,000       | 17,391   | 50,391    |

| FISCAL IMPACT STATEMENT               |           |
|---------------------------------------|-----------|
| TOTAL PRINCIPAL                       | 990,000   |
| ANTICIPATED FEES                      | 10,000    |
| ANTICIPATED INTEREST RATE             | 3.40%     |
| ANTICIPATED ANNUAL COST (PRIN + INT): | 50,391    |
| TOTAL PAYBACK (ANNUAL COST x TERMS):  | 1,511,730 |

PREPARED BY HEIDI SEELBACH